ARRANGEMENT

OF

THE PAPERS

PRINTED BY ORDER

0 F

THE HOUSE OF COMMONS,

Session 1839,

 $(N^{\circ} 1. \text{ to } N^{\circ} 582.)$

IN FIFTY VOLUMES:

SPECIFYING

THE NUMBER OF VOLUMES;

AND CONTAINING

THE TITLE PAGES, TABLES OF CONTENTS, AND OUTSIDE LABELS, TO EACH VOLUME;

WITH

A NUMERICAL LIST OF THE PRINTED PAPERS:

AND

A GENERAL ALPHABETICAL INDEX TO THE WHOLE:

TOGETHER WITH

A TABLE AND INDEX OF THE PUBLIC GENERAL ACTS

PASSED IN THIS SESSION.

5 February — 27 August 1839.



SESS. 1839.

FIFTY VOLUMES.

1.—BILLS, PUBLIC:—FIVE VOLUMES.

VOLUME

- I.—(1.)—Administration of Justice; Admiralty Court; Assaults; Assessed Taxes; Attornies; Bank; Bankrupts; Bastardy; Bar; Bills of Exchange; Bishops' Residences; Births; Bricks; Borough Courts; Canada; Clerks of Peace; Constabulary; Copyholds; Copyright; Cornwall.
- II.—(2.)—Corporations; County Courts; County Constables; Custody of Infants; Debt,
- III.—(3.)—District Sessions; Double and Treble Costs; Durham Courts; Drainage; East India; Ecclesiastical; Embankments (Ireland); Elections; Electors; Exchequer Bills; Factories; Fines and Recoveries; Fisheries.
- IV.— (4.)—Highways; Jamaica; Judges; Juries; Land Tax; Linen: Loans; Marlborough, Duke of; Metropolis Improvement: New South Wales; Oaths; Paper Duties; Patterns; Police; Poor; Postage; Prisons.
- V.— (5.)—Purchasers' Protection; Railway; Rates; Registration; Rogue Money; Salmon Fisheries; Sewers; Shannon; Sheriffs; Slave Trade; Soap; Soldiers; Spirits; Sugar; Summary Jurisdiction; Tithes; Timber; Turnpikes; Warehousing; Waterford; Wellington; Windsor; Works; Writs.

2.—REPORTS FROM COMMITTEES:——EIGHT VOLUMES.

- VI .- (1.)-Carlow Borough Election.
- VII .- (2.) Carlow Borough.
- VIII.— (3.)—Caledonian Canal; Church Leases; Fresh Fruits.
 - IX.— (4.)—Hereford Lunatic Asylum; Shipwrecks; Tumpike Trusts.
 - X.— (5.)—Railways.
 - XI.— (6.)—State of Ireland, Crime (from Lords).
- XII.— (7.)—State of Ireland, Crime (from Lords).
- XIII.— (2.)—House of Commons; London and Birmingham Railways; Metropolis Improvements.

3.—REPORTS FROM COMMISSIONERS:—SIXTEEN VOLUMES.

- XIV .- (1.)-Charities.
- XV.— (2.)—Charities.
- XVI.— (3.)—Births and Deaths; Army Statistics; Clergy; Tithes; Education; Commercial Relations.
- XVII.- (4.)-Colonial; Canada; Australia; Malta.
- XVIII.— (5.)—Corporations.
 - XIX.— (6.)—Constabulary; Criminal Law; Factories.
 - XX .- (7.)-Poor Law; Poor (Scotland); Public Works; Prisons.
 - XXI.— (8.)—Prisons, Part I.; Home District.
- XXII.— (9.)—Prisons, Parts II., III., IV.; Parkhurst Prison.
- XXIII.—(10.)—Religious Instruction (Scotland):—Fifth Report.
- XXIV .- (11.)—Religious Instruction (Scotland): -Sixth Report.
- XXV.—(12.)—Religious Instruction (Scotland):—Seventh Report.
- XXVI .- (13.)—Religious Instruction (Scotland):—Eighth and Ninth Report.
- XXVII.—(14.)—Shannon Navigation:—Fourth Report:—(Part I.)
- XXVIII .- (15.) Shannon Navigation : -- Fourth Report : (Part II.); and Fifth Report.
- XXIX.—(16.)—Universities (Scotland); Woods and Forests; Shrewsbury Roads; Loan Fund (Ireland).

4.—ACCOUNTS AND PAPERS:—TWENTY-ONE VOLUMES.

XXX.— (1.)—Finance; Offices, &c. XXXI.— (2.)—Estimates; Army; Navy; Ordnance. XXXII.— (3.)—Colonies; British North America. XXXIII.— (4.)—Canada. XXXIV.— (5.)—Canada; Australia; New South Wales. XXXV.— (6.)—Jamaica; British Guiana. XXXVI.— (7.)—Jamaica; Barbadoes; Grenada; Tobago; Trinidad. XXXVII.— (8.)—West Indies; Leeward Islands; Windward Islands; Bahamas. XXXVIII.— (9.)—Crime; Committals; Convicts. XXXIX.—(10.)—East Indies; Emigration. XL.—(11.)—East Indies. XLI.—(12.)—Births; Church; Charities; Corporations; Education; Tithes. XLII.—(13.)—Factories; Hand Loom Weavers. XLIII .- (14.) - Law; Bankruptcy; Courts of Record; Debtors; Session Court (Scotland). XLIV.—(15.)—Local Taxation; Lunatics; Poor; Turnpike Trusts; Public Works (Ireland). XLV.—(16.)—Revenue; Population; Commerce, &c. XLVI.—(17.)—Trade. XLVII.—(18.)—Steam Vessels; Trade; Miscellaneous. XLVIII.—(19.)—Slave Trade; Class (A.) (B.) XLIX.—(20.)—Slave Trade; Class (C.) (D.)

5.—A NUMERICAL LIST OF THE PRINTED PAPERS;

L.—(21.)—Slave Trade; Treaties.

AND,

6.—A GENERAL ALPHABETICAL INDEX TO THE WHOLE.

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B I L L S,

PUBLIC:

FIVE VOLUMES.

—(1.)—

ADMINISTRATION OF JUSTICE

TO

CORNWALL (STANNARY COURTS).

Session

5 February —— 27 August 1839.

VOL. I.

BILLS:

1839.

FIVE VOLUMES:—CONTENTS OF THE FIRST VOLUME.

N.B.—THE Figures at the beginning of the line, correspond with the No at the foot of each Bill; and the Figures at the end of the line, refer to the MS. Paging of the Volumes arranged for The House of Commons.

	Administration of Justice:	
511.	Bill for the better Administration of Justice in detached Parts of Counties - p.	į
	Admiralty Court:	
339•	Bill to make Provision for the Judge, Registrar, and Marshal of the High Court of Admiralty, and to extend the Jurisdiction and improve the Practice	f
	Assaults (Ireland):	
422.	Bill for the better Prevention and Punishment of Assaults in Ireland - 1	9
451.	Bill [as amended by the Committee] 2:	2
543·	Bill [as amended by the Lords] 2	
	Assessed Taxes:	•
385.	Bill to continue Compositions for Assessed Taxes, and to alter the Period for the	9
•	Expiration of Game Certificates 3	
	Attornies (Ireland):	
533.	Bill for the better Regulation of the Profession of Attorney and Solicitor in Ireland 39	
	Bank of Ireland:	
485.	Bill to continue to the Governor and Company of the Bank of Ireland certain of the Privileges now enjoyed by that Corporation, subject to certain Conditions	-
54 5 •	Bill to continue an Act of the last Session of Parliament relating to the Bank o	
040.	Ireland 77	
55 7 •	Bill [as amended by the Committee] 79)
	Banks, Joint Stock:	
507.	Bill to continue 1 & 2 Vict., relating to Legal Proceedings by certain Joint Stock Banking Companies against their own Members, and by such Members against the Companies 101	t
	Bankrupts:	
361.	Bill, intituled, "An Act for the better Protection of Parties dealing with Personaliable to the Bankrupt Laws" 100	3
	Bankrupts' Estates (Scotland):	
23.	Bill for Regulating the Sequestration of Estates of Bankrupts in Scotland - 107	,
163.	Bill [as amended by the Committee] 160)
V	DL. I.—Sess. 1839. A 2 (continued))

	Bankrupts (Ireland):								
84.	Bill to amend an Act 6 & 7 WILL. IV., relating to Bankrupts in Ireland"	intitu	ıled, ' -	'An -	Act	to am	end		aws 233
275.	Bill [as amended by the Committee]	•	-	-	-	•	-	-	235
311.	Bill [as amended on Re-commitment]	•	-	-	-	-	-	-	239
446.	Bastardy: Bill to enable Justices of the Peace in Support of Bastard Children -	Pett	y Ses	sions -	to 1	make (Order	s for	the 241
93.	Beer, Sale of: Bill to alter and amend the Laws relating	to th	e Sale	of l	Beer	-	-	-	243
357.	Bill [as amended by the Committee]	.	_	-	•	-	-	•	² 47
00,	Bills of Exchange:								17
294.	Bill to make perpetual an Act of 1 Vict and Promissory Notes from the Opera	. for e	exemp	ting	certa relat	in Bill ing to	s of F	Exch	nge 255
359. +	Bill [as amended by the Lords] -	-	-	-	-	•	-	•	² 57
369.	Bill to amend and extend the Provisions Bills of Exchange and Promissory Not to Usury	of an tes fro	Act, m the	oper	er., fation	or exe	mptin Laws	g cei	rtain
	Bishops' Residences:								
2 69.	Bill, intituled, "An Act to enable Archi Mortgage of their Sees, for the purpo Houses for their Residence"	bishop se of	s and buildi	l Bis	hops nd ot	to ra herwis	ise N se pro	Ione; vidin -	y on g fit 263
	Births, &c., Registers of:								
4.	Bill for safely keeping and authenticating Deaths or Burials, and Marriages -	certa -	in Re	giste:	rs of	Birth	s or E	Baptis -	sms, 277
61.	Bill [as amended by the Committee]	-	•	-	-	-	•	-	285
	Brick Duties:								
148.	Bill to repeal the Duties and Drawbacks Duties and Drawbacks in lieu thereof for collecting and paying the said Duti	, and	to cor	nsolid	late a	, and and an	to gra nend t	he L	ther aws 293
319.	Bill [as amended by the Committee]	•	-	-	-	-	-		303
	Borough Courts:							•	
73⋅	Bill, intituled, "An Act for regulating Proceedings in the Borough Courts of						ing		s of 313
347•	Bill, intituled, "An Act for regulating the England and Wales"	he Pr	o c eedi -	ngs i	n the	Boro	ough (ts of 315
6o.	Borough Watch Rates: Bill for more equally assessing and levying	. Wat	ch Ra	ates i	n cei	tain I	Boroug	hs,	317
307.	Bill [as amended by the Committee]	, -	-	-	-	-	-	-	321
-	Canada, Lower:					t			
336.	Bill to amend an Act of the last Sessic Provision for the Government of Lower	on of • Can	Parlis ada	amen -	t for	mak	ing te	mpo -	rary 325
	Canada, Upper and Lower:								
341.	Bill for re-uniting the Provinces of Upper Government of the United Province	er Can	ada a -	nd <i>L</i> -	ower -	Canai	da, an -		the 329
	Clerks of the Peace:								
79:	Bill to enable Justices of the Peace at Que Clerk of the Peace in certain cases	uarter -	Sessi	ons to	o app	ooint t	o the	Offic	e of 351
285.	Bill [as amended by the Committee] -	-	_	-	_	-	-	-	353

	Constabulary (Ireland):				_				
395.	Bill for the better Regulation of the Cons	tabul	ary Fo	orce in	Irel	and	-	p.	357
	Copyholds Enfranchisement:								
81.	Bill for the Enfranchisement of Lands of other Lands, subject to Manorial Righ	f Cop ts	p y hold -	and -	Custo	mary -	Tenu -	re, -	and 371
122.	Bill [as amended by the Committee]	-	-	-	-	-	-	-	417
286.	Bill [as amended on Re-commitment]	-	-	-	-		-	-	465
o. 96.	Clauses proposed	-	-	-	-	-	-	-	499
	Copyright:								
19.	Bill to amend the Law of Copyright	-	-	-	-	•	-	-	5 ⁰ 5
44•	Bill to secure to Proprietors of Designs for such Designs for a limited time	or Art	icles o	of Ma	nufac -	ture t	he Co -	руг -	ight 523
45•	Bill for extending the Copyright of Des printing other woven Fabrics -	igns -	for C	alico	Print	ing to	Desi	gns -	for 533
	Cornwall (Stannary Courts):								
315.	Bill to make further Provision for the Ad the Practice of the Courts of the St Frauds by Workmen employed in Min	annai	ries in	Corn	ustice wall,	and for and for a	or impor pre	proven	ving ting 535



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For the better Administration of Justice in detached Parts of Counties.

BERCAS the Administration of Justice is hindered by the Preamble: distance of divers detached parts of Counties in England and Wales from the body of the Counties to which they severally belong, and wherein the Justices of the Peace having jurisdiction in such detached parts for the most part do dwell: And whereas by an Act passed in the third year of the reign of his late Majesty, intituled, "An Act to settle and describe the Divisions of Counties and the Limits of Cities and Boroughs in England and Wales, in so far as respects the Election of Members to serve in Parliament," provision was made for annexing every such detached part for the purposes of the Election of Members to serve in Parliament as Knights of the Shire, to the county, riding, division or parts of a county, whereby such detached part is surrounded, or if surrounded by two or more counties or divisions, ridings or parts, then to that one with which such detached part 15 has the largest common boundary; BE it Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT after the passing of this Act it shall be lawful for any Justice 20 or Justices of the Peace acting for any county, to act as a Justice or Justices of the Peace in all things whatsoever concerning or in anywise relating to any detached part of any other county which by the said Act is considered for the purposes of the election of Members to serve in Parliament as Knights of the Shire, as forming part of the 25 county for which such Justice or Justices acts or act, and that all acts of such Justice or Justices of the Peace, and of any Constable or other officer in obedience thereto, shall be as good, and all offenders in such

511.

2 & 3 Will.

Justices may tached Parts of other Counties locally in-cluded in their County, detached part may be committed for trial, tried, convicted and sentenced, and judgment and execution may be had upon them in like manner as if such detached part were to all intents and purposes part of the county for which such Justice or Justices acts or act; and all Constables and other officers of such detached part are hereby required to obey the warrants, orders and acts of such Justice or Justices, and to perform their several duties in respect thereof, under the pains and penalties to which any Constable or other officer may be liable for a neglect of duty.

Expenses arising from prosecution of Offenders to be repaid by the County to which they belong.

And be it Enacted, That the Treasurer of every county in England and Wales shall keep an account of all expenses occasioned to such county by any act of such Justice or Justices of the Peace in or with respect to any such detached part of any other county, or out of the prosecution, maintenance and punishment, conveyance and transport of all offenders committed from such detached part, and shall Twice 15 in every year send a copy of such account to the Treasurer of the other county to which such detached part belongs, and the Treasurer of such other county shall, out of the monies in his hands as Treasurer, pay the same to the order of the Treasurer sending the account, with all reasonable charges of making and sending the account; and in case 20 any difference shall arise concerning the said account, and such difference shall not be adjusted by agreement, it shall be lawful for either of the parties to apply to the Justices of Assize of the last preceding circuit, or of the next succeeding circuit, or to one of such Justices, who shall, by writing under their or his hands or hand, nominate a Barrister-at-law, not having any interest in the question, to arbitrate between the parties, and such arbitrator may, if he shall see fit, adjourn the hearing from time to time, and require all such further information to be afforded by either of the parties as shall appear to him necessary, and shall, by his award in writing, determine the matters in difference, and his award shall be final and conclusive between the parties; and such arbitrator shall also assess the costs of the arbitration, and shall direct by whom and out of what fund the same shall be paid.

3. Interpretation of Terms,

And be it Enacted, That in construing this Act, the word 35 "County" shall be taken to mean and include "county, riding, division, and parts of a county having a separate commission of the peace.

Act may be amended.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

Administration of Justice (Parts of Counties.)

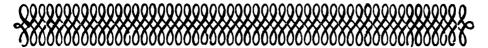
- I.

For the better Administration of Justice in detached Parts of Counties.

(Prepured and brought in by Lord Viscount Howich and Mr. Fox Maule.)

Ordered, by The House of Commons, to be Frinted, 8 August 1839.

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To make Provision for the Judge, Registrar, and Marshal of the High Court of Admiralty, and to extend the Jurisdiction and improve the Practice of the Court.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

|全形使用使用的 the present manner of remunerating the Preamble. Judge, Registrar, and Marshal of the High Court of Admiralty, ought not to be continued, and it is expedient to make other provision for the same, and for defraying the other expenses incidental to the said Court, subject nevertheless to the interest at present vested in possession in the office of Registrar:

And whereas the Jurisdiction of the said Court may be in certain respects advantageously extended, and the Practice thereof improved;

BE it therefore Enacted, by The QUEEN's most Excellent 10 MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT a yearly salary of Four thousand Pounds shall be paid to the Judge of the High Court of Admiralty, and such salary shall be payable quarterly, 15 and shall be charged upon and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

And be it Enacted, That an Act passed in the fiftieth year of the Repeal of reign of King George the Third, intituled, "An Act for regulating the Offices of Registrars of Admiralty and Prize Courts," is 20 hereby repealed, and that upon the expiration of the interest now vested in possession in the office of Registrar of the High Court of Admiralty, the Registrar of the High Court of Admiralty shall receive, out of the fund hereinafter mentioned, a yearly 339.

a yearly salary of Fourteen hundred Pounds instead of all fees, dues, perquisites, emoluments and profits heretofore received by or on account of, or for such Registrar as aforesaid: Provided always, That in time of war or other extraordinary circumstances, causing a great increase of business in the office of Registrar of the Court, it shall be lawful for Her Majesty, on the recommendation of the Judge of the High Court of Admiralty, to direct that the yearly salary of the said Registrar be increased to such sum, not exceeding Two thousand Pounds, as Her Majesty shall be pleased to direct, and such increased salary shall thenceforward continue to be paid to the said Registrar, instead of his salary as fixed by this Act, and subject to all the provisions respecting the same, until Her Majesty shall be pleased to direct that such increased salary be again reduced.

3. Marshal to be paid by Salary.

¥7.

And be it Enacted, That the Marshal of the High Court of 15 Admiralty shall receive out of the fund hereinafter mentioned a yearly salary of Five hundred Pounds, besides such travelling and other expenses necessarily incurred in the execution of his duty as the Judge of the Admiralty Court, with the approbation of the Commissioners of Her Majesty's Treasury of the United King- 20 dom of Great Britain and Ireland shall allow, instead of all fees, dues, perquisites, emoluments and profits heretofore received by or on account of such Marshal: Provided always, That in time of war and other extraordinary circumstances, causing a great increase in the business of the office of Marshal of the Court, it shall be lawful for Her Majesty, on the recommendation of the Judge of the Court, to direct that the yearly salary of the Marshal be increased to such sum, not exceeding Eight hundred Pounds, as Her Majesty shall be pleased to direct; and such increased salary shall thenceforward continue to be paid to the Marshal instead of his salary as fixed by this Act, and subject to all the provisions respecting the same, until Her Majesty shall be pleased to direct that such increased salary be again reduced.

Clerks, &c. to be appointed by Judge, subject to approval of Lord High Admiral.

And be it Enacted, That upon the expiration of the interest now vested in possession in the office of Registrar of the said Court, the Judge of the High Court of Admiralty, subject to the approval of the Lord High Admiral, or any Three or more of the Commissioners for executing the office of Lord High Admiral, shall appoint so many clerks, officers and servants as the Lord High Admiral or Commissioners aforesaid shall think necessary for carrying on the business and executing the process of the said Court; and the said Judge, with the like approval, may remove all or any of the said clerks, officers and servants at pleasure; and the Commissioners of Her Majesty's Treasury shall fix the salaries of all such clerks, officers and servants, except the officers for executing the process of the Court, who shall be paid such allowances and

such

such travelling and other expenses necessarily incurred in the execution of their duty as the Judge of the Admiralty Court, with the approbation of the Commissioners of Her Majesty's Treasury shall allow; and the salaries of all the clerks, officers and servants who receive salaries, and all such allowances and expenses, and all other expenses of carrying on the business of the said Court not otherwise provided for, shall be paid out of the fund hereinafter mentioned, and shall be allowed in the account to be rendered by the Registrar as hereinafter provided.

sion to Judge.

And be it Enacted, That it shall be lawful for Her Majesty, by 10 Letters Patent under the Great Seal of Great Britain, to give and grant an annuity, not exceeding the yearly sum of Two thousand Pounds, to any person who shall have executed the office of Judge of the High Court of Admiralty, and shall have resigned the same, to be 15 paid quarterly, and to be charged upon and paid out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, such annuity to commence from the time at which such Judge of the said Court shall have resigned his said office, and to continue thenceforth during the natural life of the grantee: Provided always, That 20 no such annuity shall be granted unless either the grantee shall have been Judge of the said Court during at least Fifteen Years, including in that period any time during which he shall have served the office of the Dean of the Arches, or unless such person shall be afflicted with some permanent infirmity disabling him from the due execution of his 25 said office, which shall be expressly recited in the grant: Provided also, That if the grantee of any such annuity shall hold any other office of profit under Her Majesty, he shall be entitled to receive so much only of the said annuity as, together with the salary and profits of such other office, shall not exceed the sum of Two thousand Pounds.

And be it Enacted, That the said salaries and annuities shall be Salaries and paid free and clear of all fees, taxes and charges whatsoever, by four equal quarterly payments, on the Fifth day of January, the Fifth day of April, the Fifth day of July, and the Tenth day of October in every year: Provided that the payment to be made in 35 each case, on the First of the said quarterly days which shall happen after the accrual of the right thereunto of the person receiving the same under this Act, shall be a rateable proportion of a quarter's salary according to the time then elapsed since the accrual of such right; and in case of vacancy in the office of any Judge 40 Registrar or Marshal, or of any clerk, officer or servant receiving a salary under this Act, whose salary is fixed by this Act, of the High Court of Admiralty, the person making the vacancy, his executors or administrators, shall be entitled to a proportional part of his quarterly salary, according to the time elapsed between the vacancy and the last quarterly payment.

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7. Office of Registrar not executed by Deputy.

And be it Enacted, That the office of Registrar of the High Court of Admiralty, after the expiration of the interest now vested in possession therein, shall not be granted for a longer time than during pleasure; nor shall the said office be executed by deputy, except in case of illness or absence for any cause to be allowed by the Judge; but the person appointed Registrar shall by himself, or with an assistant, in case an assistant shall be necessary, personally execute the duties thereof.

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8. Appointment of Deputy Registrar in case of illness,

And be it Enacted, That in case of illness, or necessary cause of absence, it shall be lawful for the said Registrar, from time to 10 time as occasion may require, to appoint a deputy, being a proctor of the said Court, to act for the said Registrar, in case of his absence from illness, or other reasonable cause allowed by the Judge, such deputy to be first approved by the Judge of the High Court of Admiralty; and no such deputy shall continue to act for any 15 longer time than shall be allowed and specified in and by the order which shall be made by, on each occasion, the Judge of the High Court of Admiralty: Provided, That in case any Registrar of the said Court who shall be prevented by illness from giving his personal attendance, shall omit for the space of Two Days 20 to appoint such deputy, the Judge of the High Court of Admiralty shall, if he shall see fit, himself appoint such Deputy, and direct what part of the salary of such Registrar shall be received by such Deputy, and the same shall be paid over to and received by him accordingly.

9. Judge of Admiralty may direct the ap-pointment of an Assistant Registrar; his Salary.

And be it Enacted, That at any time when the state of the business of the said Court shall appear to require the appointment of an Assistant Registrar, the Judge of the High Court of Admiralty may direct the Registrar to make such appointment, and such Assistant Registrar, being one of the proctors of the said Court, shall thereupon be appointed by the Registrar, subject to the approval of the Judge of the Court, and for such time as the Judge may think necessary, and shall be entitled to receive a salary not exceeding Twelve hundred Pounds, as Her Majesty shall be pleased to direct, which salary in either case shall be paid out of the same fund, and be subject to the same provisions as are herein enacted with respect to the payment of the salary of the Registrar.

10. Her Majesty may alter Table of Fees.

And be it Declared and Enacted, That it shall be lawful for Her Majesty to regulate the fees of the said Court, and to amend and alter the table of fees therein, as by Her Majesty, with the advice 40 of Her Privy Council, shall be thought fit.

11. Registrar to account annually for Fees received by him.

And be it Enacted, That the Registrar of the High Court of Admiralty shall, on or before the Twentieth day of January in every year,

year, render to the Lord High Treasurer or the Lords Commissioners of Her Majesty's Treasury, upon oath to be sworn before the Judge of the High Court of Admiralty or a Surrogate of the said Court, a true account in writing of the gross and net amount of all such fees and emoluments as shall have become due in the preceding year ending on the Fifth day of January, on account of the Judge of the said Court by virtue of his office as such Judge, or on account of the Marshal or any other officer of the said Court, specifying the particulars of the payments, disbursements, allowances and 10 charges constituting the difference between such gross and net amounts; and also, after the expiration of the interest now vested in possession of the office of Registrar of the High Court of Admiralty, a like account of all the fees, dues, perquisites, emoluments and profits received by or on account of or for the Registrar of the said Court of Admiralty, and the Marshal, Seal-keeper, and every other officer of the Court, other than the Registrar in the receipt of any fees for business done in the said Court shall render to the Registrar upon oath, to be sworn before the Judge or a Surrogate of the Court, a true account in writing of all the fees respectively received by each of them at such times and subject to such regulations as the Judge of the Court from time to time shall think fit to direct.

> 12. Fees to be carried to Fee Fund.

And be it Enacted, That all the fees so received on account of the Judge and Marshal or any other officer of the Court of the said 125 High Court of Admiralty, and also all the fees, dues, emoluments, perquisites and profits received by or on account of the said Registrar after the expiration of the interest at present vested in possession in the said office of Registrar, shall be carried by the Registrar to the account of a fund to be called "The Fee Fund of the High Court of 30 Admiralty;" and out of the said Fee Fund there shall be paid by the said Registrar, at the times and in the manner hereinbefore directed, the salaries of the Registrar, Assistant Registrar and Marshal, and of the clerks, officers and servants of the said Court, and all expenses of holding and carrying on the business 35 of the said Court not otherwise provided for; and in case there shall be at any time a deficiency in the said Fee Fund, so that the same shall not be sufficient to discharge the several salaries, and sums of money hereinbefore charged thereon, the Judge of the High Court of Admiralty shall, by writing under his hand and seal, 40 certify to the Lord High Treasurer or to the Commissioners of Her Majesty's Treasury the amount of such deficiency; and the Lord High Treasurer or any Three of such Commissioners shall forthwith, upon the receipt of such certificate, direct that there be issued and paid out of and charged upon the Consolidated Fund of the United Kingdom of Great Britain and Ireland to the Principal or Deputy Registrar of the said Court, on account of the Fee Fund of the said Court, 339. **A** 3 such

such a sum of money as shall be sufficient to cover the deficiency so certified to them as aforesaid.

13.
Surplus to be paid to the Consolidated Fund.

And be it Enacted, That when and so often from time to time as the said Fee Fund shall amount to such a sum as shall be sufficient to pay all the salaries, and sums of money hereinbefore charged 5 thereupon, and there shall be a surplus remaining after such payment, the Registrar of the High Court of Admiralty shall once in every quarter of a year, (that is to say) on or before the Twentieth day of April, the Twentieth day of July, the Twentieth day of October, and the Twentieth day of January, pay such surplus (if 10 any) into the Bank of England to the credit of Her Majesty's Exchequer, to the account of the said Consolidated Fund.

Judge and Registrar to receive no Fees on their own account.

And be it Enacted, That neither the Judge nor any future Registrar, Assistant Registrar or Marshal of the High Court of Admiralty shall be entitled to, or take for his own use or benefit, 15 directly or indirectly, any fee or emolument whatsoever, save the salary, allowance or annuity to which he shall be entitled by virtue of this Act.

15.
Accounts may be referred to Judge of Court of Admiralty or Dean of Arches.

And be it Enacted, That in case the said Lord High Treasurer, or any Three or more Commissioners of Her Majesty's Treasury for the time being, shall be dissatisfied with any account to be rendered to them as aforesaid, it shall be lawful for him or them to refer the same to the Judge of the High Court of Admiralty, and to the Dean of the Arches, or to either of them, who shall thereupon, by such ways and means and by the examination of such persons as they or he shall think fit, and upon oath if they or he shall think the same necessary, (which he or they is and are hereby authorized to administer,) inquire into the said accounts, or any entry therein, and all or any of the disbursements, allowances or charges therein contained, and make such allowances and disallowances therein as he or they shall think reasonable, and shall finally settle and certify in writing the net amount of the fees and emoluments to which such account relates.

16.
Dean of
Arches to sit
for Judge of
Court of Admiralty in
certain cases.

And be it Enacted, That it shall be lawful for the Dean of the Arches for the time being, to be assistant to, and to exercise all the power, authority and jurisdiction, and to have all the privileges and protections of the Judge of the said High Court of Admiralty, with respect to all suits and proceedings in the said Court, and that all such suits and proceedings, and all things relating thereto, brought or taking place before the Dean of the Arches, whether the Judge of the said High Court of Admiralty be or be not at the same time sitting or transacting the business of the same Court, and also during any vacancy of the office of Judge of the said Court, shall be of the same force and effect in all respects as if the same had been brought

brought or had taken place before the Judge of the said High Court of Admiralty, and all such suits and proceedings shall be entered and registered as having been brought and as having taken place before the Dean of the Arches sitting for the Judge of the High Court of Admiralty.

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And be it Declared and Enacted, That all persons who now are, or at any time hereafter may be entitled to practise as Advocates in the Court of Arches, are and shall be entitled to practise as Advocates in the High Court of Admiralty; and that all persons who now are or hereafter may be entitled to act as Proctors or Surrogates in the Court of Arches, shall be entitled respectively to be admitted to practise and act as Proctors and Surrogates in the said High Court of Admiralty, according to the rules and practice now prevailing and observed, or hereafter to be made in and by the said High Court of Admiralty, touching the admission and practising of Advocates, Proctors and Surrogates in the said Court respectively.

17.
Advocates,
Notaries and
Surrogates
of Court of
Arches to be
admitted in
Court of
Admiralty.

And be it Declared and Enacted, That after the passing of this Act, any person having a cause of action whereon he might sue in any of Her Majesty's Courts of Record for the recovery of any sum earned by him, otherwise than as master of any ship or vessel, as wages for his service as a mariner on the high seas, or otherwise due to him in respect of such service, notwithstanding the same may have been under a special contract, or a contract under seal, or a contract made or entered into on land, and also every person who shall be entitled to any share in the profits of any voyage or expedition on which he shall have served as a mariner, in consideration of such share, may institute a suit upon any such cause of action or demand in the High Court of Admiralty, which said Court shall have full jurisdiction to take cognizance thereof, and to decide every such suit so to be instituted.

18.
Power to sue in Court of Admiralty for Scamen's Wages on special Contract, or Contract under seal, or on partnership account.

And be it Enacted, That after the passing of this Act, whenever any ship or vessel shall be under arrest by process issuing from the said High Court of Admiralty, or the proceeds of any ship or vessel having been so arrested shall have been brought into and be in the Registry of the said Court, in either such case the said Court shall have full jurisdiction to take cognizance of all claims and causes of action of any person in respect of any mortgage of such ship or vessel, and to decide any suit instituted by any such person in respect of any such claims, or causes of action respectively.

1 Q.
When Vessel arrested, or proceeds in registry, Court to have jurisdiction over Claims of Mortgagees.

And be it Enacted, That the High Court of Admiralty shall have jurisdiction to decide all questions as to the title to or ownership of any ship or vessel, arising in any cause of possession, salvage, wages or bottomry bond, which shall be instituted in the said Court, after the passing of this Act.

20. In causes of Possession, Salvage, Wages, or Bottomry Bond, Court to decide Questions of Title.

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And,

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21.
Appeals may
be made to the
Court of Admiralty on
distributions.

And be it Enacted, That whenever any award shall have been made by any Justices of the Peace, or by any person nominated by them, or within the jurisdiction of the Cinque Ports, by any Commissioners, respecting the amount of salvage to be paid, or respecting any claims and demands for services or compensation, which such Justices and Commissioners within their several jurisdictions are empowered to decide under the provisions of two Acts passed in the second year of the reign of King George the Fourth, for remedying certain defects relative to the adjustment of salvage, it shall be lawful for any person interested in the distribution of the amount awarded, to require distribution to be made thereof among the several persons entitled thereunto, to be certified under the hand of the person or persons by whom such amount shall be awarded; and an account of every such distribution shall be annexed to the award; and it shall be lawful for any person interested in such distribution who shall think himself aggrieved thereby, within

after the making of the award, but not afterwards, to take out a Monition from the High Court of Admiralty, requiring any person being in possession of any part of the amount awarded to bring in the same to abide the judgment of the Court concerning the distribution thereof; and the person or persons by whom the award shall have been made, shall upon Monition send without delay to the High Court of Admiralty a copy of the proceedings before him and them, and of the award, on unstamped paper, certified under his or their hand; and the same shall be admitted by the Court of Admiralty as evidence, and the amount awarded shall be distributed according to the judgment of the Court.

22.
Admiralty in certain cases may adjudicate on claims for services, and materials, although not on the high seas.

And be it Enacted, That the High Court of Admiralty shall have jurisdiction to decide all claims and demands whatsoever, in the nature of salvage for services rendered to or damage received by any ship or sea-going vessel, or in the nature of towage, or for necessaries supplied to any foreign ship or sea-going vessel, notwith-standing that such ship or vessel may have been within the body of a county, and not upon the high seas, at the time when the services were rendered or damage received, or necessaries furnished, in respect of which such claim is made.

23. Evidence may be taken vivâ voce in open Court.

And be it Enacted, That in any suit depending in the High Court of Admiralty, the Court (if it shall think fit) may summon before it, and examine or cause to be examined witnesses by word of mouth, and either before or after examination by deposition, or before a Commissioner, as hereinafter mentioned; and notes of such evidence shall be taken down in writing by the Judge or Registrar, or by such other person or persons, and in such manner, as the Judge of the said Court shall direct.

And

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24. Evidence may be taken viva voce before a Commissioner.

And be it Enacted, That the said Court may, if it shall think fit, in any such suit, issue one or more Special Commissions to some person, being an Advocate of the said High Court of Admiralty, of not less than Seven years' standing, or a Barrister-at-law of not less than Seven years' standing, to take evidence by word of mouth, upon oath, which every such Commissioner is hereby empowered to administer, at such time or times, place or places, and as to such fact or facts, and in such manner, order and course, and under such limitations and restrictions, and to transmit the same to the Registry of the said Court, in such form and manner as in and by the Commission shall be directed; and that such Commissioner shall be attended, and the witnesses shall be examined, cross-examined and re-examined by the parties, their counsel, proctors or agents, if such parties, or either of them, shall think fit 15 so to do; and such Commission shall, if need be, make a special report to the Court touching such examination, and the conduct or absence of any witness or other person thereon, or relating thereto; and the said High Court of Admiralty is hereby authorized to institute such proceedings, and make such order or orders upon 20 such report as justice may require, and as may be instituted, or made in any case of contempt of the said Court.

And be it Enacted, That it shall be lawful in any suit depending in the High Court of Admiralty, for the Judge of the said Court, or for any such Commissioner appointed in pursuance of this Act, to require the attendance of any witnesses, and the production of any deeds, evidences or writings, by writ to be issued by such Judge or Commissioner in such and the same form, or as nearly as may be, as that in which a writ of subpæna ad testificandum, or of subpæna duces tecum, is now issued by Her Majesty's Court of Queen's Bench at Westminster; and that every person disobeying any such writ so to be issued by the said Judge or Commissioner shall be cousidered as in contempt of the said High Court of Admiralty, and shall also be liable to such and the same penalties and consequences as if such writ had issued out of the said Court of Queen's Bench, and may be prosecuted for such contempt, or sued for such penalties in the said Court of Queen's Bench.

25.
Attendance of Witnesses and production of Papers may be compelled by Subpæna.

And be it Enacted, That all the provisions of an Act passed in the fourth year of the reign of his late Majesty, intituled, "An Act for the further Amendment of the Law and better Administration of Justice," with respect to the admissibility of the evidence of witnesses interested on account of the verdict or judgment, shall extend to the admissibility of evidence in any suit pending in the High Court of Admiralty, and the entry directed by the said Act to be made on the record of judgment shall be made upon the 339.

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26.
Provisions of 3 & 4 W. 4., c. 42, extended to Court of Admiralty.

document containing the final sentence of the said Court, and shall have the like effect as the entry on such record.

27. Power to direct Issues.

And be it Enacted, That in any contested suit depending in the High Court of Admiralty, the said Court shall have power, if it shall think fit so to do, to direct a trial by jury of any issue or issues on any question or questions of fact arising in any such suit, and that the substance and form of such issue or issues shall be specified by the Judge of the said Court at the time of directing the same; and if the parties differ in drawing such issue or issues, it shall be referred to the Registrar of the said Court to settle the 10 same; and if such trial shall be directed, the said Court upon its own view, or if the same shall be directed upon the application of one only of the parties to the suit, such trial shall be had at the bar of any of Her Majesty's superior Courts of Common Law at Westminster, or before some Judge of the same at the Sittings at Nisi Prius in London or Middlesex, or before some Judge of Assize at Nisi Prius, as to the said Court shall seem fit; but in case all the parties to any such suit wherein such issue or issues shall be directed shall make application to the said Court for that purpose, the said Court shall direct such issue or issues to be tried at the Sittings at Nisi 20 Prius in London or Westminster, or before some Judge of Assize at Nisi Prius.

28. Costs in the Discretion of the Court.

And be it Enacted, That the costs of such issues, or of such commission as aforesaid, as the Judge of the said High Court of Admiralty shall under this Act direct, shall be paid by such party or parties, person or persons, and be taxed by the Registrar of the said High Court of Admiralty, in such manner as the said Judge shall direct, and that payment of such costs shall be enforced in the same manner as costs between party and party may be enforced in other proceedings in the said Court.

20. Power to direct New Trials.

And be it Enacted, That the High Court of Admiralty, upon application to be made within after the trial of any such issue by any party concerned, may grant and direct one or more new trials of any such issue, and may order such new trial to take place in the manner hereinbefore directed with regard to the first trial of such issue, and may by order of the same Court direct such costs to be paid, as to the said Court shall seem fit upon any application for a new trial, or upon any new trial, or second or other new trial, and may direct by whom and to whom, and at what times and in what manner such costs shall be paid.

30. Granting or refusing new trial matter of appeal.

And be it Enacted, That the granting or refusing to grant an issue, or a new trial of any such issue, may be matter of appeal to Her Majesty in Council. .

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ceptions to be allowed on

And be it Enacted, That at the trial of any issue, directed by Bills of Exsaid High Court of Admiralty, either party shall have all the like powers, rights and remedies with respect to bills of exceptions, as parties impleaded before Justices may have, by virtue of the Statute made in that behalf in the thirteenth year of the reign of King EDWARD the First, with respect to exceptions alleged by them before such Justices, or by any other Statute made in the like behalf; and every such bill of exceptions, sealed with the seal of the Judge or Judges, to whom such exceptions shall have been made, shall be 10 annexed to the record of the trial of the said issue.

And be it Enacted, That the record of the said issue, and of Record of the the verdict therein, shall be transmitted by the Associate, or other proper officer, to the High Court of Admiralty; and the verdict Admiralty. of the Jury upon any such issue (unless the same shall be set aside) 15 shall be conclusive upon the said Court, and upon all such persons; and in all further proceedings in the cause in which such fact is found the said Court shall assume such fact to be as found by the jury.

Issue to be transmitted to the Court of

And be it Enacted, That every person who, if this Act had not Provisions of 20 been passed, might have appealed and made suit to Her Majesty in Council against any proceeding, decree or sentence of the said High Court of Admiralty under or by virtue of an Act passed in the third year of the reign of his late Majesty, intituled, "An Act for transferring the Powers of the High Court of Delegates, both in 25 Ecclesiastical and Maritime Causes, to his Majesty in Council," may in like manner appeal and make suits to Her Majesty in Council against the proceedings, decrees and sentences of the said Court, in all suits instituted and proceedings had in the same by virtue of the provisions of this Act, and that all the provisions of 30 the said last-mentioned Act shall apply to all appeals and suits against the proceedings, decrees and sentences of the said Court in suits instituted and proceedings had by virtue of the provisions of this Act, and such appeals and suits shall be proceeded in in the manner and form provided by an Act passed in the fourth year of the reign of 35 his late Majesty, intituled, "An Act for the better Administration 3 & 4 W. 4. of Justice in his Majesty's Privy Council," and all the provisions of Council Act, the said last-mentioned Act relating to appeals and suits from the to apply in High Court of Admiralty shall be applied to appeals and suits from the said Court in suits instituted and proceedings had by virtue of 40 the provisions of this Act: Provided always, That in any such appeal the notes of evidence taken as hereinbefore provided by or under the direction of the Judge of the said High Court of Admi-

c. 92, as to Appeals to Admiralty under this

Court

ralty, shall be certified by the said Judge to Her Majesty in Council, and shall be admitted to prove the oral evidence given in the said Court of Admiralty, and that no evidence shall be admitted on such appeal to contradict the notes of evidence so taken and certified as aforesaid, but this proviso shall not enure to prevent the Judicial Committee of the Privy Council from directing witnesses to be examined and re-examined upon such facts as to the Committee shall seem fit, in the manner directed by the last-recited Act.

34. Power of Judge of-Admiralty to make Rules.

And be it Enacted, That it shall be lawful for the Judge of the High Court of Admiralty from time to time to make such rules, orders and regulations respecting the practice and mode of proceeding of the said Court and the conduct and duties of the 10 officers and practitioners therein, as to him shall seem fit, and from time to time to repeal or alter such rules, orders or regulations: Provided always, That no such rules, orders or regulations shall be of any force or effect until the same shall have been approved by Her Majesty in Council.

35. Protection of the Judge of the Court of Admiralty.

And be it Declared and Enacted, That no action shall lie against the Judge of the High Court of Admiralty for error in judgment, and that the said Judge shall be entitled to and have all privileges and protections in the exercise of his jurisdiction as Judge of the said Court which by law appertain to the Judges of Her Majesty's 20 Superior Courts of Common Law in the exercise of their several jurisdictions.

36. Gaolers to receive prisoners committed by Admiralty Coroners.

And be it Enacted, That the Keeper for the time being of every common gaol or prison shall be bound to receive and take into his custody all persons who shall be committed thereunto by any 25 Coroner appointed by the Judge of the High Court of Admiralty, upon any inquest taken within the county or other jurisdiction to which such gaol or prison belongs; and every Keeper of any gaol or prison who shall refuse to receive into his custody any person so committed, or wilfully or carelessly suffer such person to 30 escape and go at large without lawful warrant, shall be liable to the like penalties and consequences as if such person had been committed to his custody by the coroner of such county or other jurisdiction.

37. Prisoners in contempt may be discharged.

And be it Enacted, That it shall be lawful for the Judge of the 35 High Court of Admiralty to order the discharge of any person who shall be in custody for contempt of the said Court, for any cause other than for nonpayment of money, on such conditions as to the Judge shall seem just: Provided always, That the order for such discharge shall not be deemed to have purged the original 40 contempt, in case the conditions on which such order shall be made be not fulfilled.

And

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And be it Enacted, That the High Court of Admiralty shall have jurisdiction to decide all matters and questions concerning booty of war, or the distribution thereof, which it shall please Her Majesty, Her heirs and successors, by the advice of Her and their Privy Council, to refer to the judgment of the said Court, and in all matters so referred the Court shall proceed as in cases of prize, and the judgment of the Court therein shall be binding upon all parties concerned.

Jurisdiction to try quesing booty of

Provided always, and be it Enacted, That nothing herein 10 contained shall be deemed to preclude any of Her Majesty's Courts of Law or Equity now having jurisdiction over the several subject matters and causes of action hereinbefore mentioned from continuing to exercise such jurisdiction as fully as if this Act had not been passed

39. Jurisdiction of Courts of Law and taken away.

And be it Enacted, That this Act may be repealed or amended Act may be by any Act to be passed in this Session of Parliament.

amended or repealed.

dmiralty Court

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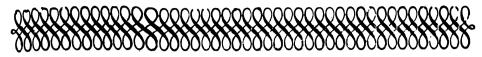
To make Provision for the Judge, Registrar, and Marshal of the High Court of Admiralty, and to extend the Jurisdiction and improve the Practice of the Court.

(Prepared and brought in by Mr. Charles Wood and Mr. Attorney General.)

Ordered, by The House of Commons, so be Printed 21 June 1839.

339.

18 July 1839.—3 VICT.



(Ireland.)

A

1 T B

For the better Prevention and Punishment of Assaults in Ireland.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

BORCAS the use of Stones, and of loaded Sticks, and Preamble. loaded Whips, in the commission of Assaults, has been productive often of grievous injury and sometimes loss of life in Ireland:

And whereas, by an Act passed in the tenth year of the reign of 5 his late Majesty King GEORGE the Fourth, intituled, "An Act for consolidating and amending the Statutes in Ireland relating to Offences against the Person," a summary power of punishing persons for common Assaults is provided under the limitations therein mentioned, 10 and jurisdiction is given, when any person should unlawfully assault or beat any other person, to Justices of the Pcace, upon complaint of the party aggrieved, to hear and determine the offence; and it is enacted, that the offender, upon conviction thereof before them, shall forfeit and pay such fine as shall appear to them to be meet, not 15 exceeding, together with costs (if ordered), the sum of Five Pounds; and in default of the person so convicted paying such fine as therein mentioned, power is given by said Act to such Justices to commit the offender to the common Gaol or House of Correction, there to be imprisoned for any term not exceeding Two calendar Months, unless such fine and costs be sooner paid; 20

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parlia-422. ment

Penalty for Assaults conjmitted with loaded loaded Weapons, _{shoo} cell al earl

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ment assaubled, and by the Authority of the same, THAT if upon hearing of any such complaint it shall appear to the Justices, by proof on oath, that such unlawful assault or beating was committed by the offender hitting or striking the party aggrieved with a stone, or with a stick or whip loaded with iron or any other metal, the offender upon conviction thereof before such Justices shall, in lieu of such fine or penalty so imposed by said Act, forfeit and pay such fine as shall appear meet to such Justice, not less than the sum of One Pound, nor exceeding the sum of Ten Pounds, together with costs (if ordered), such fine and costs to be paid and applied in like manner as any fine imposed by virtue of said provision of said Act may or ought to be paid or applied; and if such fine as shall be awarded by the Justices, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the said Justices shall at the time of the conviction appoint, it shall be lawful for them to commit the offender to the common Gaol or House of Correction, there to be imprisoned for any term not exceeding Four calendar Months, unless such fine or costs be sooner paid.

2. Justices to dismiss in case they shall deem the Offence not to be proved, or the Asault justified; but not on the ground that the Injury is trifling, if the Assault be committed with a Stone or loaded Whip or Stick.

Provided always, and be it Enacted, That in case the Justice, upon the hearing of any such complaint of assault or battery, shall deem 20 the offence not to be proved, or in case they shall find the assault or battery to have been justified (in which cases only they are hereby empowered to dismiss the complaint, after such proof shall be given that the assault or battery was so committed by hitting or striking with a stone, or whip or stick so loaded as aforesaid), and in case they shall dismiss the complaint accordingly, they shall forthwith make out a certificate under their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred: Provided also, That nothing herein contained shall take away or affect the discretion given by said Act to Justices of dismissing such complaint, as they are thereby empowered to entertain, if they shall deem the offence, though committed, to be so trifling as not to merit any punishment, in cases in which proof shall not be given that the assault or beating was committed by the offender so hitting or striking with a stone, or whip or stick so loaded as aforesaid.

3.
Provisions of 10 Gev.4, c. 34, with reference to Summery Conviction (save as hereby otherwise provided), ex-tended to this Act.

And be it Enacted, That, save as hereby otherwise provided, all the powers and authorities given by and the provisions contained in said Act with respect to such summary conviction, and to the form thereof, and the non-removal thereof by certiorari or otherwise, and the time within which any such complaint shall be brought, and every other provision, of said Act relating to proceedings under said summary jurisdiction for common assaults, shall apply to every proceeding instituted, and every penalty imposed, and every conviction and certificate had or made under or by virtue of this Act.

And

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And be it Enacted, That this Act shall come into operation on the First day of October One thousand eight hundred and Thirty-nine, and shall continue in force for Five Years.

Act to come into operation on 1st October 1839, and to continue in force for Five Years.

And be it Enacted, That in the construction of this Act every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

5. Interpretation Clause.

And be it Enacted, That this Act may be amended or repealed Act may be amended or by any Act or Acts passed in this present Session of Parliament.

6.

Assaults.

(Ireland.)

For the better Prevention and Punishment of Assaults in Ireland.

(Prepared and brought in by Lord Viscount Morpeth and Mr. Solicitor General for Ireland.)

Ordered, by The House of Commons, to be Printed, 18 July 1839.

422.



(Ireland.)

A

B I L L

[AS AMENDED BY THE COMMITTEE]

For the better Prevention and Punishment of Assaults in Ireland.

[N. B.—The Clauses marked (A.) to (G.) were added by the Committee.]

bereamble. loaded Whips, in the commission of Assaults, has been productive of grievous injury and sometimes loss of life in Ireland:

And whereas, by an Act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled, " An Act for 5 consolidating and amending the Statutes in Ireland relating to Offences against the Person," a summary power of punishing persons for common Assaults is provided under the limitations therein mentioned, and jurisdiction is given, when any person should unlawfully assault 10 or beat any other person, to Justices of the Peace, upon complaint of the party aggrieved, to hear and determine such! offence; and it is enacted, that the offender, upon conviction thereof before them, shall forfeit and pay such fine as shall appear to them to be meet, not exceeding, together with costs (if ordered), the sum of Five Pounds; 15 and in default of the person so convicted paying such fine as therein mentioned, power is given by said Act to such Justices to commit the offender to the common Gaol or House of Correction, there to be imprisoned for any term not exceeding Two calendar Months, unless such fine and costs be sooner paid;

20 Est it therefore Chatted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords. Spiritual and Temporal, and Commons, in this present Parlia-451.

I.
Penalty for
Assaults committed with
loaded
Weapons.

ment assembled, and by the Authority of the same, THAT if, upon hearing of any such complaint, it shall appear to the Justices, by proof on oath, that such unlawful assault or beating was committed by the offender hitting or striking the party aggrieved with a stone or heavy and dangerous metal weapon held in or swung by the offender's hand while the blow was inflicted, or with a stick or whip loaded with iron or any other metal, or with any instrument so loaded, the offender upon conviction thereof before such Justices shall, in lieu of such fine or penalty so imposed by said Act, forfeit and pay such fine as shall appear meet to such Justices, not less than the sum of Ten Shillings, nor exceeding the sum of Five Pounds, together with costs (if ordered), such fine and costs to be paid and applied in like manner as any fine imposed by virtue of said provisions of said Act may or ought to be paid or applied, unless otherwise ordered as hereinafter mentioned; and if such fine as shall be so awarded by the Justices, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the said Justices shall at the time of the conviction appoint, it shall be lawful for them to commit the offender to the common Gaol or House of Correction, there to be imprisoned for any term not exceeding Two calendar Months, unless such fine or costs be sooner paid.

2.
CLAUSE (A.)
Penalty in
certain cases
may be paid
to the party
injured, or his
wife or child.

Provided always, and be it Enacted, That in case the party injured by such beating or assault shall not himself be examined upon the hearing of such complaint, it shall be lawful for the Justices to award that the amount of such fine or penalty, or any part thereof, and such costs as aforesaid, shall be paid to such party so injured, and the same shall be so paid accordingly.

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3. CLAUSE (B.) Pardon for pon-payment of money.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Chief Governors of Ireland, to extend the Royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for non-payment of money to some party other than the Crown.

4. Justices to dismiss in case they shall deem the Offence not to be proved, or the Assault justified; but not on the ground that the Injury is trifling, if the Assault be committed with a Stone held in the hand, or loaded Whip or Stick.

Provided always, and be it Enacted, That in case the Justice, upon the hearing of any such complaint of assault or battery, shall deem the offence not to be proved, or in case they shall find the assault or battery to have been justified, and in case they shall dismiss the complaint accordingly, they shall forthwith make out a certificate under their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred; and said certificate shall be of the same force and effect as any certificate given under said recited Act: Provided also, That nothing herein or in said recited Act contained shall empower the Justices to dismiss such complaint as they are thereby empowered to entertain, (although

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they might, under other circumstances, deem the offence, though committed, to be so trifling as not to merit any punishment), if proof shall be given before them that the assault or beating was committed by the offender so hitting or striking with a stone or heavy and dangerous metal weapon held in or swung by his hand when the blow was inflicted, or with a whip or stick or instrument so respectively loaded as aforesaid.

Provided always, and be it Enacted, That in case the Justices before whom such complaint and such proof shall be made, shall find the assault to be such as in their opinion to be a fit subject for a prosecution by indictment, or if the complainant or prosecutor shall so require, they shall abstain from any adjudication thereupon; and if the charge be such, and so substantiated, as to warrant a prosecution, shall deal with the case as one to be prosecuted at the Assizes or Quarter Sessions:

15 Provided always, That nothing herein contained shall authorize any Justice of the Peace to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements or hereditaments, or any interest therein or accruing thereupon, or as to any bankruptcy or insolvency, or any execution under any process of any Court of Justice.

And be it Enacted, That if any person shall unlawfully assault and beat or wound any person with a stone or any heavy and dangerous missile, (whether held in or swung by the hand while the blow is inflicted, or flung at such person), or with a stick or whip loaded with iron or any other metal, or with any instrument so loaded, and shall be convicted thereof on any indictment, in any such case the Court may sentence the offender, being convicted thereof, to be imprisoned, with or without hard labour, in the common gaol or house of correction for any time not exceeding Six calendar Months, and may also, if the Court shall so deem fit, fine the offender in any sum not exceeding Ten Pounds, and require him to find sureties to keep the peace.

And be it Enacted, That where any person shall be convicted on any such indictment, such person may, if the Court shall so think fit, in addition to the judgment which shall be considered proper for the offence, be ordered and adjudged to pay to the Prosecutor his actual and necessary costs and expenses of prosecution, and such moderate allowance for the loss of time as the Court shall by affidavit or other inquiry and examination ascertain to be reasonable, and unless the sum so awarded shall be sooner paid, to be imprisoned for any time not exceeding Three Months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

GLAUSE (C.)
Justices, if
they think fit,
or be required
by the Prosecutor, shall
deal with the
case as one to
be prosecuted
at the Assizes
or Quarter
Sessions.

Summary jurisdiction under this Act not to be exercised in certain cases.

6.
CLAUSE (D.)
Punishment
on conviction
on indictment
under this Act,
Six Months'
imprisonment
with or without hard
labour, with
or without
fine not exceeding 101.

7.
CLAUSE (E.)
On conviction
for assault,
Court may
order payment
of Prosecutor's
costs.

Provided

Penalty for Assaults committed with loaded Weapons.

ment assembled, and by the Authority of the same, THAT if, upon hearing of any such complaint, it shall appear to the Justices, by proof on oath, that such unlawful assault or beating was committed by the offender hitting or striking the party aggrieved with a stone or heavy and dangerous metal weapon held in or swung by the offender's hand while the blow was inflicted, or with a stick or whip loaded with iron or any other metal, or with any instrument so loaded, the offender upon conviction thereof before such Justices shall, in lieu of such fine or penalty so imposed by said Act, forfeit and pay such fine as shall appear meet to such Justices, not less than the sum of Ten Shillings, nor exceeding the sum of Five Pounds, together with costs (if ordered), such fine and costs to be paid and applied in like manner as any fine imposed by virtue of said provisions of said Act may or ought to be paid or applied, unless otherwise ordered as hereinafter mentioned; and if such fine as shall be so awarded by the Justices, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the said Justices shall at the time of the conviction appoint, it shall be lawful for them to commit the offender to the common Gaol or House of Correction, there to be imprisoned for any term not exceeding Two calendar Months, unless such fine or costs be sooner paid.

2.
CLAUSE (A.)
Penalty in certain cases may be paid to the party injured, or his wife or child.

Provided always, and be it Enacted, That in case the party injured by such beating or assault shall not himself be examined upon the hearing of such complaint, it shall be lawful for the Justices to award that the amount of such fine or penalty, or any part thereof, and such costs as aforesaid, shall be paid to such party so injured, and the same shall be so paid accordingly.

3. CLAUSE (B.) Pardon for pon-payment of money.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Chief Governors of Ircland, to extend the Royal mercy to any person imprisoned by virtue of this Λ ct, although he shall be imprisoned for non-payment of money to some party other than the Crown.

4. Justices to dismiss in case they shall deem the Offence not to be proved, or the Assault justified; but not on the ground that the Injury is trifling, if the Assault be committed with a Stone held in the hand, or loaded Whip or Stick.

Provided always, and be it Enacted, That in case the Justice, upon the hearing of any such complaint of assault or battery, shall deem the offence not to be proved, or in case they shall find the assault or battery to have been justified, and in case they shall dismiss the complaint accordingly, they shall forthwith make out a certificate under their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred; and said certificate shall be of the same force and effect as any certificate given under said recited Act: Provided also, That nothing herein or in said recited Act contained shall empower the Justices to dismiss such complaint as they are thereby empowered to entertain, (although

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they might, under other circumstances, deem the offence, though committed, to be so trifling as not to merit any punishment), if proof shall be given before them that the assault or beating was committed by the offender so hitting or striking with a stone or heavy and dangerous metal weapon held in or swung by his hand when the blow was inflicted, or with a whip or stick or instrument so respectively loaded as aforesaid.

Provided always, and be it Enacted, That in case the Justices before whom such complaint and such proof shall be made, shall find the assault to be such as in their opinion to be a fit subject for a prosecution by indictment, or if the complainant or prosecutor shall so require, they shall abstain from any adjudication thereupon; and if the charge be such, and so substantiated, as to warrant a prosecution, shall deal with the case as one to be prosecuted at the Assizes or Quarter Sessions:

15 Provided always, That nothing herein contained shall authorize any Justice of the Peace to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements or hereditaments, or any interest therein or accruing thereupon, or as to any bankruptcy or insolvency, or any execution under any process of any Court of Justice.

And be it Enacted, That if any person shall unlawfully assault and beat or wound any person with a stone or any heavy and dangerous missile, (whether held in or swung by the hand while the blow is inflicted, or flung at such person), or with a stick or whip loaded with iron or any other metal, or with any instrument so loaded, and shall be convicted thereof on any indictment, in any such case the Court may sentence the offender, being convicted thereof, to be imprisoned, with or without hard labour, in the common gaol or house of correction for any time not exceeding Six calendar Months, and may also, if the Court shall so deem fit, fine the offender in any sum not exceeding Ten Pounds, and require him to find sureties to keep the peace.

And be it Enacted, That where any person shall be convicted on any such indictment, such person may, if the Court shall so think fit, in addition to the judgment which shall be considered proper for the offence, be ordered and adjudged to pay to the Prosecutor his actual and necessary costs and expenses of prosecution, and such moderate allowance for the loss of time as the Court shall by affidavit or other inquiry and examination ascertain to be reasonable, and unless the sum so awarded shall be sooner paid, to be imprisoned for any time not exceeding Three Months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

CLAUSE (C.)
Justices, if
they think fit,
or be required
by the Prosecutor, shall
deal with the
case as one to
be prosecuted
at the Assizes
or Quarter
Sessions.

Summary jurisdiction under this Act not to be exercised in certain cases.

6.
CLAUSE (D.)
Punishment
on conviction
on indictment
under this Act,
Six Months'
imprisonment
with or without hard
labour, with
or without
fine not exceeding 101.

7.
CLAUSE (E.)
On conviction
for assault,
Court may
order payment
of Prosecutor's
costs.

8.

CLAUSE (F.) Payment may be enforced by distress of offender's goods.

Provided always, and be it Enacted, That it shall and may be lawful for the Court, by warrant under hand and seal, to order that such sum as shall be so awarded shall be levied by distress and sale of the goods and chattels of the offender, and paid to the person prosecuting, and that the surplus, (if any), arising from such sale, shall be paid to the owner; and in case such sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease.

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CLAUSE (G.) Prosecutor a competent witness.

And be it Enacted, That the power hereby given to award such compensation as aforesaid shall not prevent any Prosecutor from being a competent witness on any indictment.

10. Provisions of 10 Geo.4, c. 34, with reference to Summary Conviction (save as hereby otherwise provided), extended to this Act.

And be it Enacted, That, save as hereby otherwise provided, all the powers and authorities given by and the provisions contained in said Act with respect to such summary conviction, and to the form thereof, and the non-removal thereof by certiorari or otherwise, and the time within which any such complaint shall be brought, and every other provision of said Act relating to proceedings under said summary jurisdiction for common assaults, shall apply to every proceeding instituted, and every penalty imposed, and every conviction and certificate had or made under or by virtue of this Act.

11. Interpretation

And be it Enacted, That in the construction of this Act every word 20 importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

12. Act to come iuto operation on 1st September 1839, and to continue in force for Five Years.

And be it Enacted, That this Act shall come into operation on the 25 First day of September One thousand eight hundred and Thirty-nine, and shall continue in force for Five Years.

13. Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act or Acts passed in this present Session of Parliament.

27

(Ireland.)

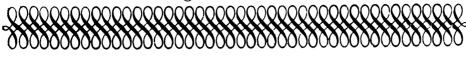
[AS AMENDED BY THE COMMITTEE]

For the better Prevention and Punishment of Assaults in Ireland.

Ordered, by The House of Commons, to be Printed, 24 July 1839.

19 August 1839. —3 VICT.





(Ireland.)

[AS AMENDED BY THE LORDS]

INTITULED.

AN ACT for the better Prevention and Punishment of Assaults in Ireland for Five Years.

[Note.—The Figures in the Margin denote the Number of Presses in the Ingrossment.] [N. B.—The Words and Clauses printed beneath a Black Line at the bottom of the Pages were struck out by the Lords, and the Words printed in Italics were added by the Lords.]

Preamble. loaded whips, in the commission of assaults, has been productive of grievous injury and sometimes loss of life in Ireland: And whereas by an Act passed in the tenth year of the reign of his late Majesty King George the Fourth, intituled, "An Act for consolidating and amending the Statutes in Ireland relating to Offences against the Person," a summary power of punishing persons for common assaults is provided under the limitations therein mentioned, and jurisdiction is given, when any person should unlawfully assault or beat any other person, to Justices of the Peace, upon complaint of the party aggrieved, to hear and determine such offence, and it is enacted, that the offender, upon conviction thereof before them, shall forfeit and pay such fine as shall appear to them to be meet, not exceeding, together with costs (if ordered) the sum of Five Pounds; 2 and in default of the person so convicted paying such fine as therein mentioned, power is given by the said Act to such Justices to commit the offender to the common gaol or house of correction, there to be imprisoned for any term not exceeding Two calendar Months, unless such fine and costs be sooner paid;

18th it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual 543.

10 Geo. 4, c. 34, s. 36.

Penalty for Assault committed with a Stone or loaded Weapon.

Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT if, upon hearing of any such complaint, it shall appear to the Justices, by proof on oath, that such unlawful assault or beating was committed by the offender hitting or striking the party aggrieved with a stone or brick-bat, or heavy and dangerous metal weapon held in or swung by the offender's hand while the blow was inflicted, or with a stick or whip loaded with iron or any other metal, or with any heavy instrument soloaded, the offender, upon conviction thereof before such Justices, shall, in lieu of such fine or penalty so imposed by the said Act, forfeit and pay such fine as shall appear meet to such Justices, not less than the sum of Ten Shillings, nor exceeding the sum of Five Pounds. together with costs (if ordered), such fine and costs to be paid and applied in like manner as any fine imposed by virtue of the said provisions of the said Act may or ought to be paid or applied, unless otherwise ordered as hereinafter mentioned; and if such fine as shall be so awarded by the Justices, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the said Justices shall at the time of the conviction appoint, it shall be lawful for them to commit the offender to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for any term not exceeding Two calendar Months, unless such fine or costs be sooner paid.

Penalty and costs in certain cases may be paid to the party injured.

Provided always, and be it Enacted, That in case the party injured by such beating or assault shall not himself be examined upon the hearing of such complaint, it shall be lawful for the Justices to award that the amount of such fine or penalty, or any part thereof, and such costs as aforesaid, shall be paid to such party so injured, and the same shall be so paid accordingly.

3. Pardon for non-payment of money.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Chief Governors of Ireland, to extend the Royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for non-payment of money to some party other than the Crown.

Justices to dismiss in case they shall deem the offence; not to be proved, or the assault to be justified; but not on the ground that the injury is trifling, if the assault be com-

Provided always, and be it Enacted, That in case the Justices, upon the hearing of any such complaint of assault or battery, shall deem the offence not to be proved, or in case they shall find the assault or battery to have been justified, and in case they shall dismiss the complaint accordingly, they shall forthwith make out a certificate under their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred; and the said certificate shall be of the same force and effect as any certificate given under the said recited Act: Provided also, That nothing herein

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herein or in the said recited Act contained shall empower the Justices, mitted with to dismiss any such pomplaint (1) if the offence shall be proved, and in the hand, they shall not find the assault or hattery to have been justified whip or (although they might, under other circumstances, deem) the offence (3) to be so trifling as not to merit any punishment), (3) where proof shall be given before them that the assault or beating was committed by the offender so hitting or striking with a stone or brick-bat or heavy and dangerous, metal weapon; held in or swung, by his hand, when the blow was inflicted, or with a whip for stick or sheavy instrument so! respectively loaded as aforesaid. As whomey no suff above he are during thinks

Provided always, and be it Enacted, That in case the Justices before; Justices if whom such complaint and such proof shall be made, shall find the or b assault to be such as in their opinion to be a fit subject for a prosecution by the Prosecution, shall tion by indictment, or if the complainant or prosecutor shall so require, deal with the they shall abstain from any adjudication thereupon; and if the charge be be prosecuted at the Assizes such, and so substantiated, as to warrant a prosecution, shall deal with the case as one to be prosecuted at the Assizes or Quarter Sessions. (4) at A. T. Comban to the law as to. C

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flit and pry rock fine as abad appear meet to such Jusic by the Prose

And be it Enacted, That if any person shall unlawfully assault and beat or wound any person with a stone or brick-bat, or any heavy and, on conviction dangerous missile (whether held in or swung by the hand while the blow is inflicted, or flung at such person), or with a stick or whip loaded with iron or any other metal, or with any heavy instrument so loaded, and shall be convicted thereof on any indictment, in any such case the Court in sentencing the offender, being convicted thereof, to be imprisoned, may order that he be kept to hard labour, (5) and require him to find sureties to keep the peace.

Court in certain cases ment for Assault, in sentencing to may direct the Offender Hard Labour, and require **Bureties** to keep the Pcace.

And

(1) as they are thereby empowered to entertain

(2) though committed,

(4) Provided always, That nothing herein contained shall authorize any Justice of the Peace to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements or hereditaments, or any interest therein or accruing thereupon, or as to any bankruptcy or insolvency, or any execution under any process of any Court of Justice.

Summary Jurisdiction under this Act ercised in certain cases.

(5) for any period or periods not exceeding Six calendar Months in the whole,

(6) And be it Enacted, That where any person shall be convicted on any such indictment, such person may, if the Court shall so think fit, in addition to the judgment which shall be considered proper for the offence, be ordered and adjudged to pay to the prosecutor his actual and necessary costs and expenses of prosecution, and such moderate

7. On conviction Court may order pay secutor's coats.

allowance 543.

8.
CLAUSE (F.)
Payment may
be enforced by
distress of
offender's
goods.

Provided always, and be it Enacted, That it shall and may be lawful for the Court, by warrant under hand and seal, to order that such sum as shall be so awarded shall be levied by distress and sale of the goods and chattels of the offender, and paid to the person prosecuting, and that the surplus, (if any), arising from such sale, shall be paid to the owner; and in case such sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease.

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9. CLAUSE (G.) Prosecutor a competent witness.

And be it Enacted, That the power hereby given to award such compensation as aforesaid shall not prevent any Prosecutor from being a competent witness on any indictment.

10.
Provisions of 10Geo.4, c. 34, with reference to Summery Conviction (save as hereby otherwise provided), extended to this Act.

And be it Enacted, That, save as hereby otherwise provided, all the powers and authorities given by and the provisions contained in said Act with respect to such summary conviction, and to the form thereof, and the non-removal thereof by certiorari or otherwise, and the time within which any such complaint shall be brought, and every other provision of said Act relating to proceedings under said summary jurisdiction for common assaults, shall apply to every proceeding instituted, and every penalty imposed, and every conviction and certificate had or made under or by virtue of this Act.

11. Interpretation Clause.

And be it Enacted, That in the construction of this Act every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied to a female as well as a male.

Act to come into operation on 1st September 1839, and to continue in force for Five Years.

And be it Enacted, That this Act shall come into operation on the 25 First day of September One thousand eight hundred and Thirty-nine, and shall continue in force for Five Years.

13. Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act or Acts passed in this present Session of Parliament.

7.
Provisions of 10 Geo. 4, c. 34, with reference to summary Conviction (save as hereby otherwise provided) extended to this Act.

And be it Enacted, That, save as hereby otherwise provided, all the powers and authorities given by and the provisions contained in the said Act with respect to such summary conviction, and to the form thereof, and the non-removal thereof by certiorari or otherwise, and the time within which any such complaint shall be brought, and every other provision of the said Act relating to proceedings under the said summary jurisdiction for common assaults, shall apply to every proceeding instituted, and every penalty imposed, and every conviction and certificate had or made under or by virtue of this Act.

8.
Act to come into operation on 1st September 1839, and to continue Five Years.

(1)

And be it Enacted, That this Act shall come into operation on the First day of September One thousand eight hundred and Thirty-nine, and shall continue in force for Five Years.

9. Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

allowance for the loss of time as the Court shall by affidavit or other inquiry and examination ascertain to be reasonable, and unless the sum so awarded shall be sooner paid, to be imprisoned for any time not exceeding Three Months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

8. Payment may be enforced by distress of offender's goods.

Provided always, and be it Enacted, That it shall and may be lawful for the Court, by warrant under hand and seal, to order that such sum as shall be so awarded shall be levied by distress and sale of the goods and chattels of the offender, and paid to the person prosecuting, and that the surplus (if any) arising from such sale shall 7 be paid to the owner; and in case such sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease.

9. Prosecutor a competent Witness.

And be it Enacted, That the power hereby given to award such compensation as last aforesaid shall not prevent any Prosecutor from being a competent witness on any indictment.

11. Interpretation Clause.

(1) And be it Enacted, That in the construction of this Act every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied 8 to a female as well as a male.

Assaults (Ireland).

(Ireland.)

3 I L

[AS AMENDED BY THE LORDS]

intituled,

AN ACT for the better Prevention and Punishment of Assaults in Ireland for Five Years.

Ordered, by The House of Commons, to be Printed, 19 August 1839.



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T B

To continue Compositions for Assessed Taxes, and to alter the Period for the Expiration of Game Certificates.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.

PERCAS by an Act passed in the fourth and fifth years Preamble: of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to continue for Five Years, from the Fifth 4 & 5 W. 4. Day of April One Thousand Eight Hundred and Thirty-five, and to amend the Acts for authorizing a Composition for Assessed Taxes," the Compositions for Assessed Taxes now in force will expire on the Fifth day of April One thousand eight hundred and Forty; and it is expedient to continue the same for a further term of One Year; BE it therefore Enacted, by The QUEEN's most Excellent Ma-10 JESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the several Duties payable under every Contract of Composition for the Duties of Assessed Taxes, and every Contract and Composition respectively 15 now in force, shall be and the same are hereby respectively continued to Her Majesty, Her heirs and successors, to the like annual amounts now payable, for a further term of One Year, to be computed from the Fifth day of April One thousand eight hundred and Forty, and to determine on the Fifth day of April One thousand eight hundred 20 and Forty-one, to all intents and under the same rules and privileges as if such Compositions did not by the laws now in force expire before the last-mentioned day; and all the powers and provisions of the several Acts passed relating to and for continuing the duties of Compositions and Contracts for collecting the same, and for enforcing 385. payment

payment thereof, shall be extended and applied to the Compositions and Contracts continued under this Act, to all intents as if the same had been repeated and re-enacted in this Act.

Except in cases where Parties shall give Notice to determine the same on the 5th of April 1840.

Provided always, and be it Enacted, That this Act shall not extend to the Contract or Composition of any person who shall be desirous of determining the same on the Fifth day of April One thousand eight hundred and Forty, and who shall, on or before the Tenth day of October One thousand eight hundred and Thirty-nine, give notice thereof in writing to the Assessor or Collector of the parish or place, or to the Surveyor acting in the execution of the Acts relating to the Duties of Assessed Taxes for the district in which such Composition shall be payable.

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shall

Preamble reciting 52 G. 3, c. 93, Schedule (L.)

AND whereas by an Act passed in the fifty-second year of the reign of King George the Third, intituled, "An Act for granting to his Majesty certain new and additional Duties of Assessed Taxes, and for consolidating the same with the former Duties of Assessed Taxes," certain Duties specified and set forth in Schedule (L.) to the said Act annexed, are granted and made payable in respect of killing Game, and by the rules contained in the said Schedule for charging the said last-mentioned Duties it is enacted, that every person who intends to do or shall do any act in the said Schedule mentioned, by reason of the doing of which he shall become chargeable with or liable to the said Duty thereby made payable, shall, before he shall do any such act, pay the said Duty to the Collector of the Duties of Assessed Taxes, and obtain a certificate thereof, in the manner directed by the said rules, which certificate it is thereby declared shall continue in force until and upon the Fifth day of April next after the time of issuing the same, and no longer: And whereas great inconvenience has been felt by reason of the expiration of the said certificates at a period when the Collectors of the said Duties for the ensuing year have not been appointed, whereby persons are prevented from immediately obtaining renewed certificates, and for remedy thereof it is expedient that the expiration of all such certificates should be deferred until after the period of the year at which the said Collectors are usually appointed; BE it therefore Enacted, That all such certificates as aforesaid, which have been granted, and at the time of the passing of this Act are now in force, and also all such certificates as aforesaid, which shall be granted at any time after the passing of this Act, and before the Sixth day of July in the year One thousand eight hundred and Forty, shall, notwithstanding any thing in the said recited Act, or in the aforesaid Schedule (L.) thereto annexed, or in any of the said certificates contained to the contrary thereof respectively, continue in force until and upon the Fifth day of July in the said year One thousand eight hundred and Forty, and

Game Certificates to expire on the 5th of July, instead of the 5th of April.

shall then cease and determine, and that all such certificates as aforesaid, which shall be granted at any time after the Fifth day of July in the said year One thousand eight hundred and Forty, shall continue in force until and upon the Fifth day of July next after the time of issuing the same, and no longer, any thing in any former Act or Acts contained to the contrary thereof in anywise notwithstanding; and in respect of all such certificates as aforesaid, which shall be issued after the passing of this Act, the forms thereof contained in Schedule (N.) to the said Act annexed, shall be altered as to the period of the expiration of the said certificates, and shall be made conformable with the provisions of this Act.

Assessed Taxes Composition, &c.

BILI

To continue Compositions for Assessed Taxes, and to alter the Period for the Expiration of Game Certificates.

(Prepared and brought in by
The Chancellor of the Exchequer and
Mr. Baring.)

Ordered, by The House of Commons, to be Printed, 6 July 1839.

385.



(Ireland.)

For the better Regulation of the Profession of Attorney and Solicitor in Ireland.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

Preamble. for the better Regulation of the Profession of Attorney and Solicitor in Ireland, and to insure the education, skill and respectability of persons admitted to the practice thereof, and for that 5 purpose it is necessary that the several Acts hereinafter mentioned should be repealed, and other provisions made in lieu thereof; BE it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and , Temporal, and Commons, in this present Parliament assembled, and 10 by the Authority of the same, THAT from and after the First day of Michaelmas Term One thousand eight hundred and Thirty-nine, the several Acts hereinafter mentioned shall be and the same are hereby Repealed, save so far as hereinafter provided; (that is to say) an Act made in the Parliament of Ireland in the seventh year of 7Geo. 2, c. 5; 15 the reign of King George the Second, intituled, "An Act for the Amendment of the Law in relation to Popish Solicitors, and for the remedying other Mischiefs in relation to the Practitioners in the several Courts of Law and Equity;" an Act made in the same Parliament in the thirteenth and fourteenth year of the reign of King 20 George the Third, intituled, "An Act for the better Regulation of the Admission and Practice of Attornies;" an Act made in the Parliament of the United Kingdom in the first and second years of the reign of King George the Fourth, intituled, "An Act to amend the several Acts for the Regulation of Attornies and Solicitors;" and an 3 Geo. 4, c. 16; Act made in the said last mentioned Parliament in the third year of 533. the

1 & 2 Geo. 4,

Penalty for Assault committed with a Stone or loaded Weapon.

Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT if, upon hearing of any such complaint, it shall appear to the Justices, by proof on oath, that such unlawful assault or beating was committed by the offender hitting or striking the party aggrieved with a stone or brick-bat, or heavy and dangerous metal weapon held in or swung by the offender's hand while the blow was inflicted, or with a stick or whip loaded with iron or any other metal, or with any heavy instrument so loaded, the offender, upon conviction thereof before such Justices, shall, in lieu of such fine or penalty so imposed by the said Act, forfeit and pay such fine as shall appear meet to such Justices, not less than the sum of Ten Shillings, nor exceeding the sum of Five Pounds, together with costs (if ordered), such fine and costs to be paid and applied in like manner as any fine imposed by virtue of the said provisions of the said Act may or ought to be paid or applied, unless otherwise ordered as hereinafter mentioned; and if such fine as shall be so awarded by the Justices, together with costs (if ordered), shall not be paid either immediately after the conviction, or within such period as the said Justices shall at the time of the conviction appoint, it shall be lawful for them to commit the offender to the common gaol or house of correction, there to be imprisoned, with or without hard labour, for any term not exceeding Two calendar Months, unless such fine or costs be sooner paid.

Penalty and costs in certain cases may be paid to the party injured.

Provided always, and be it Enacted, That in case the party injured by such beating or assault shall not himself be examined upon the hearing of such complaint, it shall be lawful for the Justices to award that the amount of such fine or penalty, or any part thereof, and such costs as aforesaid, shall be paid to such party so injured, and the same shall be so paid accordingly.

3. Pardon for non-payment of money.

And be it Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Chief Governors of Ireland, to extend the Royal mercy to any person imprisoned by virtue of this Act, although he shall be imprisoned for non-payment of money to some party other than the Crown.

Justices to dismiss in case they shall deem the offence not to be proved, or the assault to be justified; but not on the ground that the injury is trifling, if the assault be com-

Provided always, and be it Enacted, That in case the Justices, upon the hearing of any such complaint of assault or battery, shall deem the offence not to be proved, or in case they shall find the assault or battery to have been justified, and in case they shall dismiss the complaint accordingly, they shall forthwith make out a certificate under their hands, stating the fact of such dismissal, and shall deliver such certificate to the party against whom the complaint was preferred; and the said certificate shall be of the same force and effect as any certificate given under the said recited Act: Provided also, That nothing herein

herein or in the said recited Act contained shall empower the Justices mitted with to dismiss any such complaint (1) if the offence shall be proved, and in the hand, they shall not find the assault or hattery to have been justified whip or loaded (although they might, under other circumstances, deem the offence (2)) to be so trifling as not to merit any punishment), (3) where proof shall be given before them that the assault or beating was committed by the offender so hitting or striking with a stone or brick-bat or heavy and dangerous metal weapon; held in or swung, by his hand when the blow was inflicted, or with a whip correction or heavy instrument (so,) respectively loaded as aforesaid. or otherwise on the section of the section in the section of t

Proxided always, and be it Enacted, That in case the Justices before; Justices if whom such complaint and such proof shall be made, shall find the or be required assault to be such as in their opinion to be a fit subject for a prosecution shall so require. by the Prosecutor, shall deal with the tion by indictment, or if the complainant or prosecutor shall so require, they shall abstain from any adjudication thereupon; and if the charge be such, and so substantiated, as to warrant a prosecution, shall deal with the case as one to be prosecuted at the Assizes or Quarter Sessions. (4) 3 1. 13 () 1 10 11 11 11 11

fat in his validation as that appear meet to such Justice case as one to be prosecuted at the Assizes or Quarter Sessions.

And be it Enacted, That if any person shall unlawfully assault and beat or wound any person with a stone or brick-bat, or any heavy and dangerous missile (whether held in or swung by the hand while the blow is inflicted, or flung at such person), or with a stick or whip loaded with iron or any other metal, or with any heavy instrument so loaded, and shall be convicted thereof on any indictment, in any such case the Court in sentencing the offender, being convicted thereof, to be imprisoned, may order that he be kept to hard labour, (5) and require him to find sureties to keep the peace.

6. Court in certain cases, on conviction ment for Assault, in sentencing to Imprisonment may direct the Offender to be kept to Hard Labour, and require him to find Sureties to keep the

And

(1) as they are thereby empowered to entertain

(2) though committed,

(3) if

(4) Provided always, That nothing herein contained shall authorize any Justice of the Peace to hear and determine any case of assault or battery in which any question shall arise as to the title to any lands, tenements or hereditaments, or any interest therein or accruing thereupon, or as to any bankruptcy or insolvency, or any execution under any process of any Court of Justice.

Summary Jurisdiction under this Act not to be ex-ercised in certain cases.

(*) for any period or periods not exceeding Six calendar Months in the whole.

(6) And be it Enacted, That where any person shall be convicted on any such indictment, such person may, if the Court shall so think fit, in addition to the judgment which shall be considered proper for the offence, be ordered and adjudged to pay to the prosecutor his actual and necessary costs and expenses of prosecution, and such moderate

On conviction for Assault Court may order pay-ment of Prosecutor's

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allowance

7.
Provisions of 10 Geo. 4, c. 34, with reference to summary Conviction (save as hereby otherwise provided) extended to this Act.

And be it Enacted, That, save as hereby otherwise provided, all the powers and authorities given by and the provisions contained in the said Act with respect to such summary conviction, and to the form thereof, and the non-removal thereof by certiorari or otherwise, and the time within which any such complaint shall be brought, and every other provision of the said Act relating to proceedings under the said summary jurisdiction for common assaults, shall apply to every proceeding instituted, and every penalty imposed, and every conviction and certificate had or made under or by virtue of this Act.

8.
Act to come into operation on 1st September 1839, and to continue Five Years.

(1)
And be it Enacted, That this Act shall come into operation on the First day of September One thousand eight hundred and Thirty-nine, and shall continue in force for Five Years.

9. Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

allowance for the loss of time as the Court shall by affidavit or other inquiry and examination ascertain to be reasonable, and unless the sum so awarded shall be sooner paid, to be imprisoned for any time not exceeding Three Months, in addition to the term of imprisonment (if any) to which the offender may be sentenced for the offence.

8. Payment may be enforced by distress of offender's goods.

Provided always, and be it Enacted, That it shall and may be lawful for the Court, by warrant under hand and seal, to order that such sum as shall be so awarded shall be levied by distress and sale of the goods and chattels of the offender, and paid to the person prosecuting, and that the surplus (if any) arising from such sale shall be paid to the owner; and in case such sum shall be so levied, the imprisonment awarded until payment of such sum shall thereupon cease.

9. Prosecutor a competent Witness.

And be it Enacted, That the power hereby given to award such compensation as last aforesaid shall not prevent any Prosecutor from being a competent witness on any indictment.

11. Interpretation Clause. (1) And be it Enacted, That in the construction of this Act every word importing the singular number only shall extend and be applied to several persons or things as well as one person or thing; and every word importing the masculine gender only shall extend and be applied 8 to a female as well as a male.



Assaults (Ireland).

(Ireland.)

ILLL

[AS AMENDED BY THE LORDS]

INTITULED,

AN ACT for the better Prevention and Punishment of Assaults in Ireland for Five Years.

Ordered, by The House of Commons, to be Printed, 19 August 1839.



A

To continue Compositions for Assessed Taxes, and to alter the Period for the Expiration of Game Certificates.

Note.—The Words printed in Italics are proposed to be inserted in the Committee.

percentile: of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to continue for Five Years, from the Fifth 4 & 5 W. 4. Day of April One Thousand Eight Hundred and Thirty-five, and to amend the Acts for authorizing a Composition for Assessed Taxes," the Compositions for Assessed Taxes now in force will expire on the Fifth day of April One thousand eight hundred and Forty; and it is expedient to continue the same for a further term of One Year; BE it therefore Enacted, by The QUEEN's most Excellent Ma-10 JESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the several Duties Compositions payable under every Contract of Composition for the Duties of Assessed Taxes, and every Contract and Composition respectively Term. 15 now in force, shall be and the same are hereby respectively continued to Her Majesty, Her heirs and successors, to the like annual amounts now payable, for a further term of One Year, to be computed from the Fifth day of April One thousand eight hundred and Forty, and to determine on the Fifth day of April One thousand eight hundred 20 and Forty-one, to all intents and under the same rules and privileges as if such Compositions did not by the laws now in force expire before the last-mentioned day; and all the powers and provisions of the several Acts passed relating to and for continuing the duties of Compositions and Contracts for collecting the same, and for enforcing 385. payment

extended for



payment thereof, shall be extended and applied to the Compositions and Contracts continued under this Act, to all intents as if the same had been repeated and re-enacted in this Act.

Except in cases where Parties shall give Notice to determine the same on the 5th of April ĭ840.

Provided always, and be it Enacted, That this Act shall not extend to the Contract or Composition of any person who shall be desirous of determining the same on the Fifth day of April One thousand eight hundred and Forty, and who shall, on or before the Tenth day of October One thousand eight hundred and Thirty-nine, give notice thereof in writing to the Assessor or Collector of the parish or place, or to the Surveyor acting in the execution of the Acts relating to the 10 Duties of Assessed Taxes for the district in which such Composition shall be payable.

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Preamble reciting 52 G. 3,

AND whereas by an Act passed in the fifty-second year of the reign of King George the Third, intituled, "An Act for granting to his Majesty certain new and additional Duties of Assessed Taxes, and for consolidating the same with the former Duties of Assessed Taxes," certain Duties specified and set forth in Schedule (L.) to the said Act annexed, are granted and made payable in respect of killing Game, and by the rules contained in the said Schedule for charging the said last-mentioned Duties it is enacted, that every person who intends to do or shall do any act in the said Schedule mentioned, by reason of the doing of which he shall become chargeable with or liable to the said Duty thereby made payable, shall, before he shall do any such act, pay the said Duty to the Collector of the Duties of Assessed Taxes, and obtain a certificate thereof, in the manner directed by the said rules, which certificate it is thereby declared shall continue in force until and upon the Fifth day of April next after the time of issuing the same, and no longer: And whereas great inconvenience has been felt by reason of the expiration of the said certificates at a period when the Collectors of the said Duties for the ensuing year have not been appointed, whereby persons are prevented from immediately obtaining renewed certificates, and for remedy thereof it is expedient that the expiration of all such certificates should be deferred until after the period of the year at which the said Collectors are usually appointed; BE it therefore Enacted, That all such certificates as aforesaid, which have been granted, and at the time of the passing of this Act are now in force, and also all such certificates as aforesaid, which shall be granted at any time after the passing of this Act, and before the Sixth day of July in the year One thousand eight hundred and Forty, shall, notwithstanding any thing 40 in the said recited Act, or in the aforesaid Schedule (L.) thereto annexed, or in any of the said certificates contained to the contrary thereof respectively, continue in force until and upon the Fifth day of July in the said year One thousand eight hundred and Forty, and shall

Game Certificates to expire on the 5th of July, instead of the 5th of April.

37

shall then cease and determine, and that all such certificates as aforesaid, which shall be granted at any time after the Fifth day of July in the said year One thousand eight hundred and Forty, shall continue in force until and upon the Fifth day of July next after the time of issuing the same, and no longer, any thing in any former Act or Acts contained to the contrary thereof in anywise notwithstanding; and in respect of all such certificates as aforesaid, which shall be issued after the passing of this Act, the forms thereof contained in Schedule (N.) to the said Act annexed, shall be altered as to the period of the expiration of the said certificates, and shall be made conformable with the provisions of this Act.

Assessed Taxes Composition, &c.

BILI

To continue Compositions for Assessed Taxes, and to alter the Period for the Expiration of Game Certificates.

(Prepared and brought in by
The Chancellor of the Exchequer and
Mr. Baring.)

Ordered, by The House of Commons, to be Printed, 6 July 1839.

385.



(Ireland.)

For the better Regulation of the Profession of Attorney and Solicitor in Ireland.

Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

軟 住民 使 名 ち it is expedient that provision should be made Preamble. for the better Regulation of the Profession of Attorney and Solicitor in Ireland, and to insure the education, skill and respectability of persons admitted to the practice thereof, and for that 5 purpose it is necessary that the several Acts hereinafter mentioned should be repealed, and other provisions made in lieu thereof; BE it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and 10 by the Authority of the same, THAT from and after the First day of Michaelmas Term One thousand eight hundred and Thirty-nine, the several Acts hereinafter mentioned shall be and the same are hereby Repealed, save so far as hereinafter provided; (that is to say) an Act made in the Parliament of Ireland in the seventh year of 7Geo. 2, c. 5; 15 the reign of King George the Second, intituled, "An Act for the Amendment of the Law in relation to Popish Solicitors, and for the remed ying other Mischiefs in relation to the Practitioners in the several Courts of Law and Equity;" an Act made in the same Parliament in the thirteenth and fourteenth year of the reign of King 20 GEORGE the Third, in vituled, "An Act for the better Regulation of the Admission and Practice of Attornies;" an Act made in the Parliament of the United Kingdom in the first and second years of the reign of King George the Fourth, intituled, "An Act to amend the several Acts for the Regulation of Attornies and Solicitors;" and an 3 Geo. 4, c. 16; Act made in the said last mentioned Parliament in the third year of 533.

Michaelmas Term next.

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1 & 2 Geo. 4,

repealed, save such parts of the two last Acts as do not relate to Ireland.

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Proviso for Persons now entitled to rights thereunder.

the same reign, amending the said last recited Act: Provided always, That the said two last-mentioned Acts shall be taken to be hereby repealed only so far as the same relate or extend to persons seeking to be admitted as Attornies or Solicitors in any Court of Law or Equity in England and Wales: Provided also, That notwithstanding the repeal of the said Acts, all acts, matters and things heretofore done under or in pursuance of the said recited Acts shall be good, valid and effectual to all intents and purposes: Provided also, That all persons now serving as apprentices, and who would be entitled to be admitted as Attornies or Solicitors in Ireland under the laws in force in Ireland, by virtue of such service, may be admitted and enrolled as if such service or apprenticeship had been commenced under and according to the provisions of this Act, and subject to such examination only as required by the laws in force immediately previous to the passing of this Act, and to the payment of fees not greater in amount than those now payable on the admission of Attornies, they being duly-qualified in other respects to be so admitted.

No person to practise as an Attorney or Solicitor unless admitted before the First day of Michaelmas Term next, or if afterwards, in the manner provided by this Act.

And be it Enacted, That from and after the First day of Michaelmas Term One thousand eight hundred and Thirty-nine, no person shall act as a Solicitor or Attorney, or sue out any writ or process, or commence, carry on or solicit or defend any action, suit or other procoeding in the name of any other person, or in his own name, in Her Majesty's High Court of Chancery, or in the Courts of Queen's Benchy Common Pleas or Exchequer, or any other Court of Record in Ireland, or act as an Attorney or Solicitor in any cause, matter or suit, criminal on civil, to be heard, tried or determined before any Justice of Assize, or Over and Terminer or Gaol Delivery, or in any cause or matter depending before any Commissioners of Her Majesty's Revenue, or Commissioners or other persons acting in any judicial capacity, or at any General or Quarter Sessions of the Peace for any county, city or place, or in the Court of any Assistant Barrister, or the Chairman of the Sessions of the county of Dublin, or the Commissioners of Bankruptcy or for the relief of Insolvent Debtors, unless such person shall have theretofore admitted, enrolled and otherwise duly qualified as an Attorney or Solicitor of one or more of Her Majesty's said Four Courts at Dublin, or unless such person shall be thereafter admitted, enrolled and otherwise duly qualified as an Attorney or Solicitor of one of the said Courts, pursuant and agreeably to the directions and regulations of this Act, and unless such person shall continue to be so duly qualified and on the roll at the time of his acting in the capacity of an Attorney or Solicitor as aforesaid.

3. No person to be admitted unless articled and serving for

And be it Enacted, That from and after the said First day of Michaelmas Term, no person shall be admitted to practise as an Attorney or Solicitor in any Court of Law or Equity in Ireland who shall

as the case may be.

sliall not have been bound by indentures of apprenticeship and Five years or served as an apprentice or clerk for and during the space of Five Years to a practising Attorney or Solicitor in Ireland: Provided always. That any person who shall take or have taken the degree of Bachelor of Arts within Sto Years after his matriculation, or the degree of Bachelor of Laws within Eight Years after his matriculation, in some one of the Universities of Oxford, Cambridge, Dublin or London, and who shall within Four Years after the day when he shall have taken such degree be bound by indenture of apprentice-10 ship as aforesaid, and have served as an apprentice to any such Attorney and Solicitor for and during the term of Three Years, may be admitted as an Attorney or Solicitor as aforesaid, as if he had been so bound and served for and during the said term of Five Years: Provided also, That any person who shall have kept the regular terms in any one of the said Universities for a period of at least Two Years immediately preceding the time at which he may be bound apprentice, and who shall previous to his application for admission as an Attorney, and within Four Years after the expiration of his apprenticeship. have taken the degree of Bachelor of Arts or Bachelor of Laws, shall 20 be admitted as an Attorney or Solicitor, although he shall have served as an apprentice to an Attorney and Solicitor for and during the term of Three Years only: Provided also, That if any person who now is or hereafter shall be bound to serve as an apprentice to any Attorney and Solicitor for the said term of Five Years as aforesaid, shall, with the consent of his master previously obtained in writing for that purpose, actually and bona fide be and continue as pupil to any practising Barrister, or to any person practising as a certificated Special Pleader in England or in Ireland, for any part or parts of the said term of Five Years, not exceeding One Year, without receiving any 30 salary or payment from such Barrister or Special Pleader, it shall be lawful to admit such person as an Attorney or Solicitor as if he had actually served the whole of such term of Five Years as an apprentice to the Attorney and Solicitor to whom he may have been bound, the facts being proved by affidavit to the satisfaction of the Court in which he may apply to be admitted and enrolled.

And be it Enacted, That every such officer or officers filing such affidavits as aforesaid shall keep a book, wherein shall be entered the substance of such affidavits, specifying the names and places of abode of every such Attorney or Solicitor and apprentice bound as aforesaid, and 40 of the person making such affidavit, with the date of the articles or contract in such affidavit mentioned, and the days of swearing and filing such affidavit, and such books shall and may be searched in office hours by any person or persons whatsoever, without fee or reward.

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And

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No Attorney having discontinued to practise shall retain an Apprentice.

And be it Enacted, That from and after the said First day of Michaelmas Term, no Attorney or Solicitor shall have, take or retain any apprentice who shall become bound by contract in writing as aforesaid, after such Attorney or Solicitor shall have discontinued or left off practice, or during such time as he shall not actually practise or carry on the business of an Attorney or Solicitor.

6. Apprentice to serve the wholenumber of years.

And be it Enacted, That every person who shall, after the said First day of Michaelmas Term, become bound by contract in writing to serve an Attorney or Solicitor, shall, during the whole term of service to be specified in such contract, continue and be actually employed, save as hereinbefore provided, by such Attorney or Solicitor, or his or their agent or agents (being a duly admitted and qualified Attorney and Solicitor), in the proper business, practice or employment of Attorney or Solicitor, subject to the rules and orders to be made respecting the assignment of apprentices as hereinafter mentioned.

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7. Attornies not to act as agents for unqualified persons under penalty of being struck off the Roll.

And be it Enacted, That from the said First day of Michaelmas Term, if any Attorney or Solicitor shall, upon the account or for the profit of any person or persons not being an Attorney or Solicitor, act in his own name, or permit or suffer his name to be in any way made use of, or send any process to any such person or persons, thereby to enable him or them to appear, act or practise in any respect as an Attorney or Solicitor, knowing him not to be duly qualified as aforesaid, and complaint shall be made thereof in a summary way to the Court from whence any such process shall have issued, and proof made thereof upon oath, to the satisfaction of the Court, that such Attorney or Solicitor hath offended therein as aforesaid, then and in such case every such Attorney or Solicitor so offending shall be struck off the roll, and thereby cease to be an Attorney or Solicitor, and in that case, and upon such complaint and proof made as aforesaid, it shall and may be lawful to and for the said Court to punish such unqualified person so acting or practising in manner aforesaid, as for a contempt of Court.

8.
Constitution
of the Society.

AND whereas, in order to carry the purposes of this Act into operation and effect, it is necessary that the several persons who shall be at the time of the passing of this Act members of the profession of Attorney and Solicitor in Ireland, and all such persons as shall hereafter, under the provisions of this Act, be admitted Solicitors and Attornies in Ireland, shall form and constitute a Society to be called and known by the name and style of "The Society of Attornies and Solicitors of Ireland," and that such Society shall have a Council composed of members of the said Society of Attornies and Solicitors; BE it therefore Enacted, That for ever hereafter there shall be a Council to be composed of Twenty-four members thereof,

thereof, which Council shall consist of a President, Two Vice-Presidents and Twenty-one Assistants, Seven of whom shall be a quorum for all the purposes of this Act; and that Josias Dunne, esquire, shall and he is hereby nominated and declared to be the first and present President of the said Council of the said Society; and that William Goddard and Thomas Beasley, esquires, shall be and they are hereby nominated and declared to be the first and present Vice-Presidents of the said Council of the said Society; and that Mathew Franks, John Litton, Edward Tandy, James Watt, Richard John Theodore Orpen, 10 Arthur Barlow, Pierce Mahony, William Ford, Thomas Babington, John Thomas Kift, Wills Hill Mecredy, Richard Alexander Walker, Isaac Ogle Glenny, William Hamilton Roe, Alexander Montgomery, John Grene, Patrick Castello, William Baily Wallace junior, Samuel Knose, Edward O'Beirne and William Sterne Hart, esquires, shall be and they are hereby nominated and declared to be the first and present Assistants of the said Society; and that such President, Vice-Presidents and Assistants hereby appointed shall form the first Council of the said Society, and shall act as such until a new Council shall be elected in manner hereinafter mentioned.

And be it Enacted, That a general meeting of the said Society shall be held upon the day next after the last day of Michaelmas Term, which will be in the year of our Lord One thousand eight hundred and Forty, not being Sunday, and on the day next after the last day of every succeeding Michaelmas Term, not being Sunday, as 25 aforesaid, between the hours of Nine and Four of the clock of the day, at the hall of the said Society, or such other place as shall be appointed by the Council of the said Society for that purpose; and the said Society shall proceed to elect by ballot from and amongst the members thereof One member to be President, Two to be Vice-Presidents, 30 and Twenty-one to be Assistants, together with a Secretary and Treasurer; such President, Vice-Presidents and Assistants to be the Council, and such Secretary and Treasurer to be the Secretary and Treasurer of the said Society for One Year, or until others shall be elected or appointed in their moon; and such meeting shall, if

20

Assistants who shall be members of the said Council for any one year, be determined by lot or among themselves previous to the election of a new Council, shall not be eligible to be Assistants of the Council for the ensuing year.

35 necessary, adjourn from day to day, Sunday excepted, until Fifty members of the said Society at the least, shall have been balloted at such election, such ballot to be kept open on each day until Four of the clock in the afternoon: Provided always, That Seven of such

And be it Enacted, That when and so often as any President or Vice-President shall die or resign, or become incapable of acting as such, or when any Secretary or Treasurer appointed under or elected 533.

For supplying the President or Vice-Preident, and Treasurer.

by virtue of this. Act shall die or resign, or shall be removed in the course of any current year, it shall be lawful for the Council to elect from amongst themselves, by a majority of votes, some other member or members to fill the office and discharge the duties of President or Vice-President during the remainder of the year for which such President or Vice-President would otherwise have been entitled to serve, and also to appoint any proper person to fill the office and discharge the duties of Secretary and Treasurer until the period of the election of Secretary and Treasurer under the provisions of this Act shall arrive.

5

Power to Council and General Body to make the Rules as to articled Clerks, &c. subject to the approbation of the Judges, and to alter them from time to time, subject to like approbation.

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L. And be it Enacted, That from and after the passing of this Act the said Council of the said Society, and all future Councils thereof, to be elected as aforesaid, shall and they are hereby authorized and empowered, from time to time, to frame, make and publish such rules, ordinances, regulations and orders respecting the education, qualifications, forms and payments which shall be required of and from all persons who shall after the passing of this Act apply to be articled or bound to any Attorney or Solicitor in Ireland previously to such person being articled or bound, or during or upon the expiration of such their apprenticeship, whether as to the assignment of his or their indentures of apprenticeship or otherwise, the duties to be observed by masters and apprentices during such apprenticeship, the examination, forms and qualifications necessary before any such apprentice shall be admitted into or entitled to practise in such profession of Attorney or Solicitor in Ireland, and the annual payments to be made by every Attorney and Solicitor in Ireland who shall be hereafter admitted to practise in such profession under the provisions of this Acta Provided always, That such rules, regulations, ordinances and orders be not repugnant to or inconsistent with the provisions of this Act or of any law or statute now in force, save and except such enactments as are repealed by this Act! Provided also, That such rules, regulations, ordinances and orders, or any of them, shall not have any force or effect until they shall have been posted in the common hall or other place of meeting of the said Society for the space of One calendar Month from the day they shall have been signed by or on 35 behalf of the said Council, nor until the same shall have been submitted to and approved of by the majority of the members of said Society present at a general or at a special meeting of the said Society, convened for the purpose by the said Council, and of which meeting, and the object or objects thereof, Twenty-one Days' notice at the least shall be inserted Three several times in Two Dublin newspapers, and posted in the Common Hall or other place of meeting of the said Society, at which general or special meeting such intended bye-laws, rules, regulations, ordinances and orders, or any of them, may be altered and varied in the whole or in part, as shall be agreed

to by the majority present thereat, nor until such rules, regulations, ordinances and orders so approved of at such general or special meeting of the said Society shall have been approved of and signed by the Lord High Chancellor of Ireland, the Master of the Rolls in Ireland and Judges of the Court of Queen's Bench, Common Pleas and Exchequer in Ireland for the time being, or the major part of them; and it shall and may be lawful to and for the Council of the said Society from time to time to alter, vary and repeal such rules, ordinances, regulations, orders and bye-laws, or any of them, and to make such others as to the said Council shall seem meet and expedient, such new, amended, altered or varied rules to be posted, submitted and approved by or at some general or special meeting of the said Society, and afterwards by the said Lord Chancellor, Master of the Rolls and Judges, or the major part of them, in like manner as is 15 hereinbefore directed with respect to the said first mentioned rules. orders and regulations; and the same when so finally approved of shall be printed, and posted in the Common Hall of the said Society, and shall be thenceforward, until altered as hereinafter mentioned, binding upon all members of the said profession of Aftorney and Solicitor in Ireland, and all persons seeking to become members of said profession. and upon all persons seeking to be bound apprentices to the same. and shall be sufficient in any court of law or equity to justify all persons making or acting under same or according thereto; and such Lord Chancellor, Master of the Rolls and Judges for the time being, 25 or the major part of them, are hereby required to approve or disapprove in writing of such rules, ordinances, regulations and orders, or such altered, varied or amended rules, ordinances, regulations or orders, within One Month from the time at which the same shall be laid before them in manner aforesaid; and in case the said Judges 30 shall not express in writing their disapprobation of the said rules, ordinances, regulations and orders to the said Council of the said Society within the said period, such rules, ordinances, regulations and orders shall be final, binding and effectual to all intents and purposes as if the same had been approved of in writing by the said Lord High Chancellor, Master of the Rolls and Judges, or the misjor part of them, as aforesaid.

And be it Enacted, That the Council, so nominated as aforesaid, and every future Council, shall have the power of ordaining, framing and making such bye-laws, rules and regulations for the said Society, and the management of the funds and affairs of the same, as they shall from time to time see fit, which bye-laws, rules and regulations shall from time to time be entered in a book or books to be kept for that purpose in the office of the Council of the said Society, and subscribed by such Council so assembled or their Chairman, and such bye-laws, rules and regulations shall be observed and performed until 533.

Council to own governto approval of

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altered by any subsequent bye-laws, rules or regulations of the Council of the said Society for the time being, and shall be of as much force and effect as if the same had been specifically included in and enacted by this Act: Provided always, That no such last-mentioned bye-laws, rules, orders and ordinances shall have any force or effect until approved of by the majority of members of the said Society present at a general meeting or a special meeting of the said Society, convened for the purpose by the Council of the said Society, by Three Weeks' notice to be inserted in at least Iwo Dublin newspapers, at which meeting Fifty members at least must be present, and that such meeting may alter, vary or repeal wholly or in part such bye-laws, rules, orders and ordinances, so as all and singular such bye-laws, rules, orders and ordinances be not repugnant to this Act, or to the laws or statutes now in force and not repealed by this Act.

13. Two Annual General Meetings of the Society to be holden.

And be it Enacted, That in addition to such general meeting hereby directed, there shall be for ever hereafter in every year, Two other general meetings of the said Society, which Two general meetings shall be at the hall of the said Society or such other place as shall be appointed by the said Council thereof, videlicet, on the Tenth day, not being Sunday, after the last day of Hilary and Trinity Term in every 20 year, and if such day shall happen to fall on Sunday, then on the following day; at which Two general meetings of the said Society it shall and may be lawful for the majority of the members present thereat, to ordain and make such and so many bye-laws, rules, orders and ordinances for the further regulation of the Society, and of the members and affairs thereof, and generally for carrying the objects for which the Society is founded into full and complete effect, with all such reasonable fines, penalties and amerciaments to be contained in such bye-laws, rules, orders and ordinances, as to the said majority. shall seem meet, and from time to time to alter, change and annul the said bye-laws, rules, orders and ordinances, penalties, fines and amerciaments, as the majority at such meetings shall think right, so as all and singular such bye-laws, rules, orders and ordinances, penalties, fines and amerciaments be not repugnant to the provisions of this Act or the laws and statutes in force in Ireland: Provided always, That Fifty members at least of such Society be present at such general meeting: And provided also, That Three Weeks' notice at least in writing be posted in the rooms of the said Society of any proposed new bye-laws, rules, orders or ordinances or alteration in any existing bye-laws, orders or ordinances.

Power to call Special General Meetings.

And be it Enacted, That it shall and may be lawful to and for the members of the said Society, by requisition in writing signed by Thirtyone members at the least of the said Society, to call upon and require the said Council of the said Society to convene any public general meeting

meeting of the said Society for any professional purpose or purposes, or appertaining or incident to the administration or practice of the laws in these realms; and in case the said Council shall omit, decline or refuse to convene such general meeting, that it shall and may be lawful for the members of the said Society, or any Thirty-one of such members, to convene such general public meeting of the said Society: Provided always, That One Week's notice of the time, place and object or objects of such general meeting shall be given in Two Dublin newspapers, and posted in the Common Hall or other place of meet-10 ing of the said Society.

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And be it Enacted, That in all cases where it shall be necessary for any person or persons to commence or prosecute any suit or action at law or in equity against the said Society, it shall and may be lawful for such person or persons respectively to serve or cause to be served 15 a copy or copies of any writ or proceeds whatsoever upon the Secretary for the time being of such Society; which service or services shall be taken and adjudged in all Courts whatsoever to be good and effectual service and services upon the said Society to all intents and purposes whatsoever; and that all proceedings to be instituted by the said Society in any Court of Law or Equity shall be instituted and carried on in the name of the Secretary for the time being of said Society.

15. Secretary good service.

AND whereas the forms of the examination now gone through by persons seeking to become Attornies or Solicitors in Ireland have 25 been found altogether ineffectual; BE it Enacted, That instead thereof the Lord High Chancellor of Ireland, the Master of the Rolls in Ireland, and the Judges of the Courts of Queen's Bench, Common Pleas and Exchequer, in Ireland, or the major part of them, shall and they are hereby directed and required within Two Months after the 30 passing of this Act, and from time to time as occasion shall require, to nominate and appoint Twelve persons, being Attornies and Solicitors in Ireland and members of the said Society, to be examiners of all persons desirous of being admitted Attornies or Solicitors anto any of the Courts of Law or Equity in Ireland; and that any Three of such 35 examiners shall be competent to conduct the said examination; and that from and after the passing of this Act (subject to such appeal as hereinafter mentioned), no person shall be admitted to be sworn an Attorney or Solicitor of any of the said Courts of Law or Equity. except on production of a certificate signed by the major part of such 40 examiners actually present at and conducting his examination, testifying his fitness and capacity to act as an Attorney or Solicitor (as the case may be), such certificate to be in force only to the end of the Term next following the date thereof, unless such time shall be specially. 533.

Judges to approve Twelve Attornics to be Examiners of admitted.

specially extended by the order of the Judge of the Court to which any application shall be made.

17. Examiners to conduct Examination under Rules to be previously approved of by the Judges.

And be it Enacted. That the examiners so to be appointed shall meet and conduct the said examination under rules and regulations to be framed by the Council of said Society, same being first submitted to and approved by the said Lord High Chancellor, Master of the Rolls and Judges of the said Courts of Queen's Bench, Common Pleas and Exchequer, or the major part of them, such rules and regulations not to be of any force until after One Month from the time they shall have been submitted for the approbation of the 10 Lord Chancellor and Judges aforesaid, after which the same shall be printed, and posted in the Common Hall or other place of public meeting of the said Society.

18. Examination to be held in the Hall of the Society. A Term's Notice to be given of the intention to submit to such examination.

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And be it Enacted, That such examinations shall be held in the Hall of the said Society, or, until such Hall be built or provided, in 15 such other place as the Council of the said Society shall appoint, on such days in each Term as the said examiners, or any Five of them, shall appoint; and that any person not previously admitted an Attorney or Solicitor, and desirous of being first admitted into any of the said Courts, shall give a full Term's notice in writing to the 20 said Examiners of his intention to apply for examination, by leaving the same with the Secretary of the said Society in the office of the said Society, which notice shall be in such form as shall be prescribed by any rule or bye-law of the said Society.

19. All persons applying for Admissions. to attend and submit to examination and produce Papers.

And be it Enacted, That every person so applying shall attend the 25 said examiners at such time or times and at such place or places, and produce such documents and submit to such rules and regulations, as shall be appointed by the Council of the said Society, and approved of by the Lord High Chancellor, Master of the Rolls and Judges, as hereinbefore mentioned.

20. If qualified, Certificate of approval to be given.

And be it Enacted, That upon compliance with the aforesaid regulations, and when the major part of the said examiners actually present at and conducting the said examination shall be satisfied as to the fitness and capacity of the person so applying to be admitted into any of the said Courts, but not otherwise, the said examiners so pre- 35 sent, or the major part of them, shall and they are hereby required to certify the same under their hands in the Form No. 1. in the Schedule to this Act annexed.

21. Power of appeal against Examination.

Provided always, and be it Enacted, That in case any person shall be dissatisfied with the refusal of the said examiners to grant such 40 certificate, he shall be at liberty to apply for admission by petition to the Court in which he shall be desirous of being admitted, upon which

which application no fee shall be required, and such petition shall be verified by affidavit, and shall be heard by such Court at such time as it shall appoint, and such Court shall upon the hearing thereof make such order as to it shall seem meet: Provided always, That such petitioner shall be and is hereby required to give or cause to be given Ten Days' notice in writing of the day appointed for such hearing, and also a copy of such petition and affidavit, to the said Examiners, by leaving the same with the senior Examiner, and also with the Secretary of the said Society, in the office of the said Secretary; and that it shall and may be lawful for the said Examiner or Society, by their Secretary, Council or Solicitor, to appear and be heard at the hearing of such petition.

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And be it Enacted, That the Judges of the said Courts respectively, if they shall see fit, may, before they shall admit any person to be an Attorney or Solicitor, examine and inquire by such further or other ways and means as they shall think necessary touching the fitness of such person to act in that capacity, and if they respectively shall be estisfied that such person is duly qualified to be admitted to act In that capacity, then the said Judges of the said Courts respectively shall and they are hereby authorized and required to administer in open Court to such person the oath hereinafter directed to be taken by Attornies or Solicitors in addition to the oath of allegiance; and after such oaths taken, to cause such person to be admitted an Attorney or Solicitor, as the case may be, in such Court, and his 25 name to be enrolled as an Attorney of such Court.

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Power to the make further inquiries before admis-

And be it Enacted, That every person who shall pursuant to this Attornies to Act apply to be admitted and enrolled an Attorney or Solicitor in the said Courts of Chancery, Queen's Bench, Common Pleas or Exchequer, shall, before he shall be admitted and enrolled as aforesaid, 30 take and subscribe the oath marked No. 2. in the Schedule to this Act annexed, instead of the oath or oaths heretofore usually taken by the Attornies or Solicitors of such Courts respectively; and it shall not be necessary for any person, for the purpose of admission as an Attorney or Solicitor of any Court in Ireland, after the passing 35 of this Act, to take any other oath whatsoever, save and except the oath of allegiance, any law, statute or usage to the contrary notwithstandling.

take Oath in Schedule on admission instead of the Oaths now taken.

And be it Enacted, That such officer of each of the said Courts of Chancery, Queen's Bench, Common Pleas or Exchequer, as the said 40 Lord Chancellor or Master of the Rolls, Judges or Barons of such Courts respectively shall from time to time appoint to discharge such duty, shall and threy are hereby respectively required from time to time, without fee or reward, to enrol the name of any person who shall be admitted an Attorney or Solicitor in the said respective Courts pursuant to the directions in this Act, and the time when admitted, in an alphabetical 533. order B 2

24. Name of Persons to be enrolled.

order in Rolls Books, to be provided and kept for that purpose in their said several offices, and to be open to public inspection as the Court shall direct.

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Persons admitted in one Court not required to give notice of their intention to apply for admission into other Courts.

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Provided also, and be it Enacted, That it shall not be necessary for any person being an Attorney of any one of the said Courts of Queen's Bench, Common Pleas or Exchequer, and desirous of being admitted an Attorney of any of the said Courts, or a Solicitor of the Court of Chancery, to give any such notice to the said Society, or to undergo any such examination as hereinbefore mentioned, and that the said regulations in that behalf hereinbefore contained shall not be taken to extend to any such person: Provided nevertheless, That it shall be lawful for any such Court, if it shall think fit, to direct such person to be examined in manner before mentioned as to his fitness to act in such capacity.

No Person to be re-admitted without giving proper notices.

Provided also, and be it Enacted, That any person who having been admitted an Attorney or Solicitor of any of the said Courts, whose name shall have been removed from the said roll, shall at any time afterwards be desirous of being re-admitted, and of having his name replaced on such roll, such person shall be and is hereby required to cause a notice of his intention to apply for that purpose, to be posted 20 in the said Courts respectively, and a copy of such notice to be delivered to the Secretary of the said Society Six Weeks at least before the commencement of the term in or as of which he may desire to be re-admitted, and such notice shall state his place or places of abode at the time of posting and delivering the same, and 25 during the time he shall have so ceased to practise as an Attorney or Solicitor and his occupation during such time, and such person so applying shall attend the Examiners to be appointed as aforesaid, and answer all such questions as they shall think fit to put in reference to his occupation or otherwise during the said period in which he shall have so ceased to act as an Attorney or Solicitor, and all other matters proper or material to determine his eligibility to be readmitted; and it shall not be lawful to re-place the name of any such person on the said rolls, or to re-admit him to be a Solicitor or Attorney of any such Court, unless the statements contained in the said notice shall be verified by affidavit, nor unless he shall produce to such Court a certificate signed by the said Examiners or by the major part of those present as aforesaid, that he is a fit and proper person to be re-admitted: Provided always, That in case any such person shall be dissatisfied with the result of such certificate, he may nevertheless apply by petition, to be verified by affidavit, for re-admission to the said Court, giving the like notice to the said Society of the time appointed for the hearing of such petition as hereinbefore required in the case of persons dissatisfied with the refusal of the certificate to be obtained by

by persons for the first time applying for admission, and that on the hearing of such petition it shall be lawful for such Court to re-admit or refuse to re-admit such person as it shall deem proper, after hearing the matter and any thing which may be alleged by the said Examiners or by the said Society, their Secretary, Counsel or Solicitor.

And be it Enacted, That from and after the passing of this Act, it shall not be necessary for any person intending to become an apprentice to any Attorney or Solicitor in Ireland, or after having served his apprenticeship intending to become an Attorney or Solicitor, nor shall he be required to pay any fees to, or be or become a member of the Society called "The Society of King's Inns. at Dublin." and the or the least of the first of the

1. 15 05 1. 11. 15 **27.** Attornies and become Attornies, obliged to belong to the Society of King's Inn, Dublin.

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J. A. Harrison D. Barrell

Provided always, and be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, to prevent the said Courts, or any of them, from examining and inquiring into the character and qualifications of such persons as shall apply to be admitted Attorneys or Solicitors therein respectively, or from admitting or refusing to admit such persons, in such manner and with such discretion as the said Courts respectively have heretofore in that behalf lawfully used.

· 28. Present Act not to control the existing owers of the

And be it Enacted, That this Act shall be deemed and taken to be a Public Act. Public Act; and shall be judicially taken notice of as such by all Judges, Justices and others.

THE SCHEDULE

REFERRED TO BY THE FOREGOING ACT.

No. 1.

IN pursuance of an Act passed in the second year of the reign of Her Majesty Queen VICTORIA, intituled [here set out the title of this Act]: We, being the major part of the Examiners actually present at and conducting the examination of A.B., of [et cætera], do hereby certify that we have examined the said A. B., and we do certify that the said A. B. is fit and qualified to be admitted and enrolled an Attorney in the Court of [name the Court] in Ireland. Dated this day of One thousand eight

hundred and Thirty

No. 2.

I, A. B., do swear, that I will truly and honestly demean myself in the practice of an Attorney [or, Solicitor, as the case may be], according to the best of my knowledge and ability.

So help me GOD.



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For the better Regulation of the Profession of

Attorney and Solicitor in Ireland.

Attornies and Solicitors

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To continue to the Governor and Company of the Bank of Ireland certain of the Privileges now enjoyed by that Corporation, subject to certain Conditions.

[Note.—The Words and Clause printed in Italics are proposed to be inserted in the Committee.]

物色R 色和物 the Governor and Company of the Bank of Preamble: Ireland at different times advanced to his late Majesty King GEORGE the Third, three several sums of Six hundred thousand Pounds, Five hundred thousand Pounds, and One million two hundred and fifty thousand Pounds, late Irish currency; and to his late Majesty King George the Fourth, a sum of Five hundred thousand Pounds, like currency:

And whereas by virtue of an Act passed in the Parliament of Ireland in the twenty-first and twenty-second years of the reign of his 21 & 22 Geo. 10 Majesty King George the Third, intituled, "An Act for establishing a Bank by the Name of the Governor and Company of the Bank of Ireland;" and of another Act passed in the said Parliament of Ireland in the thirty-first year of the said reign, for extending the provisions 31 Geo. 3, of the said first-recited Act; and of another Act passed in the said Par-15 liament of Ireland in the thirty-sixth year of the said reign, intituled, 36 Goo. 3, "An Act for securing the Payment of the Annuities, and of the Interest upon the Principal Sums therein provided, for and towards the Discharge of such Principal Sums in such manner as therein is directed, and for enabling the Officers of his Majesty's Treasury to 20 receive certain Sums for a limited time in manner therein mentioned, and for granting unto his Majesty a certain Sum of Money

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out of the Consolidated Fund, and for applying a certain Sum of

37 Geo. 3, c. 50.

48 Geo. 3,

1 & 2 Geo. 4, c. 72.

3 Geo. 4, c. 26.

1 Vict., c. 59.

1 & 2 Vict.,

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c. 103.

Money therein mentioned for the Service of the Year One thousand seven hundred and Ninety-six, and for other purposes;" and of another Act passed in the said Parliament of Ireland in the thirty-seventh year of the said reign, for further extending the provisions of the said first-recited Act; and of another Act passed in the Parliament of the United Kingdom in the forty-eighth year of the said reign, intituled, "An Act for further extending the Provisions of several Acts for establishing the Bank of Ireland, and for empowering the Governor and Company of the said Bank to advance the Sum of 10 One million two hundred and fifty thousand Pounds, Irish Currency, towards the Service of the Year One thousand eight hundred and Eight;" and of another Act passed in the first and second years of the reign of his Mujesty King GEORGE the Fourth, intituled, "An Act to establish an Agreement with the Governor and Company of the Bank 15 of Ireland for advancing the Sum of Five hundred thousand Pounds, Irish Currency; and to empower the said Governor and Company to enlarge the Capital Stock or Fund of the said Bank to Three Millions;" and of another Act passed in the third year of the said lastmentioned reign, intituled, "An Act to reduce the Rate of Interest 20 payable on the Sum of One million two hundred and fifty thousand Pounds, advanced by the Governor and Company of the Bank of Ireland for the Public Service, under an Act made in the forty-eighth year of his late Majesty;" and of another Act passed in the first year of the reign of Her present Majesty, intituled, "An Act to postpone until the First day of January One thousand eight hundred and Thirty-nine, the Repayment of certain Sums advanced by the Bank of Ireland for the Public Service;" and of another Act passed in the first and second years of the reign of Her present Majesty, intituled, "An Act further to postpone until the First day of January One thousand eight hundred and Forty the Repayment of certain Sums advanced by the Bank of Ireland for the Public Service;" two several annuities of Thirty thousand Pounds and Twenty-five thousand Pounds are now payable to the Governor and Company of the said Bank, and their successors for ever, in respect of the said sum of Six hundred thousand Pounds and the first hereinbefore mentioned sum of Five hundred thousand Pounds, subject nevertheless to redemption, as in the said Acts mentioned; and an annuity or interest at the rate of Four Pounds per centum per annum is now payable to the Governor and Company of the said Bank on the said sum of One million two hundred and fifty thousand Pounds; and interest at the rate aforesaid is now also payable to the Governor and Company of the said Bank on the said secondly hereinbefore mentioned sum of Five hundred thousand Pounds until the First day of January One thousand eight hundred and Forty, unless such sums should be sooner repaid; and such two last-mentioned sums are, under

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the provisions of the said Acts, to be repaid to the Governor and Company of the said Bank on the said First day of January One thousand eight hundred and Forty:

And whereas, under the provisions of the said Acts or some of them, the exclusive privileges of the Governor and Company of the said Bank may, on repayment of the said several sums of money so advanced, and payment of all arrears of the said annuities and interest, and on the giving of certain notices in the said Act mentioned, be terminated, and the Corporation of the Governor and Company of the said Bank may be dissolved:

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And whereas the said Governor and Company of the Bank of Ireland have agreed that the respective sums of Five hundred thousand Pounds and One million two hundred and fify thousand Pounds, late Irish currency, advanced by them for the Public Service, and now repayable to them on the First day of January One thousand eight hundred and Forty, shall be repaid at the time and in the manner and upon the terms and conditions hereinafter mentioned; and they have also agreed, that the interest on the several sums advanced by them as aforesaid of Six hundred thousand Pounds, Five hundred thousand Pounds, One million two hundred and fifty thousand Pounds, and Five hundred thousand Pounds, all late Irish currency, shall be reduced, provided the privilege of exclusive banking specified in this Act is continued to the said Governor and Company for the period and with the modifications specified in this Act;

BE it therefore Enacted, by The QUEEN's most Excellent Ma-JESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said Acts as relates to the dissolving of the said Corporation of the Governor and Company of the Bank of Ireland, upon the notice and payments therein mentioned, and also so much of the said Acts as provides that the hereinbefore mentioned respective sums of Five hundred thousand Pounds and One million two hundred and fifty thousand Pounds, late Irish currency, shall be repaid on the First day of January One thousand eight hundred and Forty, shall be and the same is and are hereby Repealed; and that the Governor and Company of the said Bank of Ireland, and their successors for ever, shall remain, continue and be one body corporate and politic, by the name of the Governor and Company of the Bank of Ireland aforesaid, and continue to hold and enjoy all and every the capacities, privileges and advantages whatsoever, to which the said Governor and Company of the Bank of Ireland now are, or before the passing of this Act were, entitled by the said several hereinbefore recited Acts, or any of them, and by their charter, 485.

Bank of Ireland to enjoy certain privileges upon the conditions hereinafter mentioced. with the limitations and for the period, and upon the terms and conditions; hereinafter mentioned, and subject to the termination of all such capacities, privileges and advantages, at the time and in the manner in this Act specified.

Interest on 600,000 L and 500,000 L due to Bank reduced to Three-and-a-half per Cent.

And be it Enacted, That from and after the Twenty-fourth day of June in this present year, there shall be paid and payable for ever, but subject to the condition of redemption hereinafter mentioned, at the receipt of Her Majesty's Exchequer in Dublin, to the Governor and Company of the said Bank of Ireland, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, an interest 10 or annuity of Thirty-five thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence, British currency, being a sum equal to the amount of the whole interest of the said sums of Six hundred thousand Pounds and Five hundred thousand Pounds, late Irish currency, at the rate of Three Pounds Ten Shillings per centum per annum, and which annuity or interest shall be paid by two equal half-yearly payments to the Governor and Company of the said Bank, without any defalcation or abatement, on the Twenty-fourth day of June and the Twenty-fifth day of December in each year, the first payment of the said annuity or interest to be made on the Twentyfifth day of December in this present year; and the said annuity of Thirty-five thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence shall be in lieu and satisfaction of the said two several annuities of Thirty thousand Pounds and Twenty-five thousand Pounds, late Irish currency, now payable to the said Bank under the said recited Acts.

3. Interest on 1,250,000 l. and 500,000 l. deed to Bank reduced to Three-and-a-half per Cent.

And be it Enacted, That from and after the Fifth day of July in this present year, there shall be paid and payable for ever, but subject to the condition of redemption hereinafter mentioned, at the receipt of Her Majesty's said Exchequer, to the Governor and Company of the said Bank of Ireland, out of the said Consolidated Fund, an interest or annuity of Fifty-six thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence, British currency, being a sum equal to the amount of the whole interest of the said sums of One million two hundred and fifty thousand Pounds and Five hundred thousand Pounds, late Irish currency, at the rate of Three Pounds Ten Shillings per centum per annum, and which annuity or interest shall be paid by Two equal half-yearly payments to the Governor and Company of the said Bank, without any defalcation or abatement, on the Fifth day of January and the Fifth day of July in each year; the first payment of the said annuity or interest to be made on the Fifth day of January One thousand eight hundred and Forty, and the said annuity of Fifty-six thousand five hundred and thirty-eight Pounds Nine Shillings and Twopence shall be in lieu and satisfaction of the said annuity of Fifty thousand Pounds, Irish currency, and of the interest, at the rate of Four Pounds

Pounds per centum per annum, on the said sum of Five bundred thousand Pounds, late Irish currency, now payable to the said Bank under the said recited Acts.

And be it Enacted, That the repayment of the said respective sums of Six hundred thousand Pounds, and Five hundred thousand Pounds, and One million two hundred and fifty thousand Pounds, and Five hundred thousand Pounds, all late Irish currency, and the interest thereof at the rate aforesaid, shall be and the same is hereby made chargeable upon the said Consolidated Fund until Parliament 10 shall otherwise provide.

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Repayment of Advances by Bank and Interest charged on 3 the Consoli dated Fund.

AND whereas by an Act passed in the third and fourth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for the Relief of the Owners of Tithes in Ireland, and for

the Amendment of an Act passed in the last Session of Parliament, 15 intituled, 'An Act to amend Three Acts passed respectively in the Fourth, Fifth, and in the Seventh and Eighth Years of the Reign of his late Majesty King GEORGE the Fourth, providing for the establishing of Compositions for Tithes in Ireland, and to make such Compositions permanent," it was enacted, that Exchequer Bills to an amount 20 not exceeding One million Pounds in the whole, should be issued and applied to the purposes and in manner by the said Act directed: And whereas in pursuance thereof Exchequer Bills to the amount of Six hundred and forty thousand Pounds were so issued: And whereas, pursuant to a provision in the said Act contained, empowering them

25 in that behalf, the Governor and Company of the said Bank of Ireland have advanced and lent, upon the credit of the Exchequer Bills issued under the said Act, the sum of Six hundred and forty thousand Pounds: And whereas by an Act passed in the first and second years of the reign of Her present Majesty Queen VICTORIA, intituled, "An Act

30 to abolish Compositions for Tithes in Ireland, and to substitute Rentcharges in lieu thereof," it was enacted, that Exchequer Bills to an amount not exceeding Two hundred and sixty thousand Pounds in the whole, should be issued and applied to the relief of the owners of tithes or compositions for tithes in Ireland, in manner by the said Act directed: AND

35 whereas in pursuance thereof Exchequer Bills to a certain amount have been so issued, and the residue thereof will be required to be issued for the purposes of the said Act: And whereas, pursuant to a provision in the said last-mentioned Act contained, empowering them in that behalf, the Governor and Company of the said Bank of Ireland

40 have advanced and lent, or agreed to advance and lend, upon the credit of the Exchequer Bills issued and to be issued under the said Act, the sum of Two hundred and sixty thousand Pounds: And whereas the Commons of the United Kingdom in Parliament assembled, being desirous of making provision to satisfy the principal sums contained in

such Exchequer Bills, and the interest accrued or accruing due thereon,

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Bank of Ireland to transmit Exchequer Bills held by them under recited Acts to the Paymasters of Exchequer Bills,

and receive certain amount of Stock in lieu of such Ex chequer Bills. have resolved that the Governor and Company of the said Bank of Ireland shall be entitled, in respect of the principal sums contained therein, and the interest accrued or accruing due thereon, to such capital Stock in Three Pounds per Centum Consolidated or Reduced Annuities as is hereinafter mentioned, subject to the provisions of this Act; BE it therefore Enacted, That the Governor and Company of the said Bank shall, on or before the Tenth day of October in this present year, transmit and deliver over to the Paymasters of Exchequer Bills all such Exchequer Bills made out under authority of the said recited 10 Acts, not exceeding in the whole the sum of Nine hundred thousand Pounds, as may be held by them by virtue of the agreements aforesaid; and that from and after the said Tenth day of October, all interest upon the said Exchequer Bills so held by the said Governor and Company of the Bank of Ireland shall cease, and that the Governor and 15 Company of the said Bank of Ireland shall be entitled to receive for the sum or sums contained in such Exchequer Bills, and the interest due thereon, to be computed as hereinafter mentioned, such an amount of Three Pounds per Centum Consolidated or Reduced Annuities, transferable at the Bank of England, as the said sum or sums of money 20 would have bought if the same had been applied to the purchase of Three Pounds per Centum Annuities, estimating the amount of such annuities at the quarterly average price of Three Pounds per Centum Annuities, which shall have been purchased with the monies commonly called the Sinking Fund in the same quarter of the year in which 25 such Exchequer Bills shall be cancelled as hereinafter mentioned; and the said Three Pounds per Centum Annuities, and the dividends arising thereon from time to time, shall constitute and form part of the Funds belonging to the Governor and Company of the said Bank of Ireland, and shall be subject to the same provisions and to the same 30 and the like purposes as all other capital stocks and dividends standing in their names shall and may be subject and liable to. Contraction of the

6. Paymasters of Exchequer Bills to cancel such Exchequer Bills, and certify the Amount and Interest to the Treasury.

And be it Enacted, That the said Paymasters of Exchequer Bills shall take in and receive all such Exchequer Bills as shall be so transmitted to them as aforesaid, and they are hereby authorized and re- 35 quired upon receipt thereof to mark and cancel the same, and to compute the interest that shall have become due thereupon up to the said Tenth day of October in this present, year, and to certify to the Commissioners of Her Majesty's Treasury the amount of the principal sums contained in all such Bills and the interest due thereon 40 respectively as aforesaid.

The quarterly average price of Stock to be certified to the Treasury, and such au

And be it Enacted, That the Comptroller General or Assistant Comptroller, acting under the Commissioners for the Reduction of the National Debt, shall immediately after the said Tenth day of October certify

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certify to the said Commissioners of Her Majesty's Treasury the quarterly average price of Three Pounds per Centum Consolidated or Reduced Annuities, which shall have been purchased with the monies commonly called the Sinking Fund in the quarter of the year ending on that day; and thereupon it shall and may be lawful for the said Commissioners of Her Majesty's Treasury or any Three or more of them, and they are hereby authorized and required, by warrant under their hands, to order and direct the Governor and Company of the Bank of England to direct their Accountant General to enter and place in the books of the said Bank of England, to the credit of the Governor and Company of the said Bank of Ireland, such an amount of Three Pounds per Centum Consolidated or Reduced Annuities as the said sum or sums of money so certified to the said Commissioners of the Treasury by the said Paymasters of Exchequer Bills would have bought if the same had been applied to the purchase of such Three Pounds per Centum Consolidated or Reduced Annuities, estimating the amount of such annuities at the quarterly average price thereof as certified to them by the said Comptroller General or Assistant Comptroller; and the amount of such annuities to be so placed to the credit of the Governor and Company of the said Bank of Ireland shall be specified in such warrant, and the same shall be entered and placed to their credit accordingly; the first half-yearly payment of the dividends whereof shall commence from the day on which the last half-yearly dividends were due and payable on the said Three Pounds per Centum Consolidated or Reduced Annuities (as the case may be).

amount of Stock as might have been purchased with the Principal and Interest due on the Exchequer of Bills; to be placed to credit of the Bank of Ireland.

And be it Enacted, That the Three Pounds per Centum Annuities which shall be created under and by virtue of this Act shall be deemed and taken to be, and shall be added to, and shall form part of the capital of the Three Pounds per Centum Consolidated or Reduced Annuities (as the case may be), transferable at the Bank of England, and the dividends arising thereon shall, as the same shall become due, be charged upon and be payable out of, and the same are hereby made chargeable upon, the Consolidated Fund of the United Kingdom of Great Britain and Ireland.

Three per Cent. Annuities created by the powers of this Act to be chargeable upon the Consolidated Fund.

AND whereas by the hereinbefore recited Act passed in the Parliament of Ireland in the thirty-sixth year of the reign of his Majesty King George the Third, a certain annual sum was made payable by the Governor and Company of the said Bank on the Twenty-fourth day of June in every year, into the receipt of his then Majesty's Exchequer, for the use of his said Majesty, his heirs and successors, in respect of the monies of the suitors in his Majesty's Courts and of the public deposited in the said Bank: And whereas 485.

6th sec. of 36 Geo. 3, c. 1. Annual payment by Bank to cease.

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other arrangements have been since made in respect of the said Suitors' Fund, and it is reasonable that the said payment by the said Bank of Ireland into the said Exchequer should cease; BE it therefore Enacted, That from and after the Twenty-fourth day of June in this present year, the same shall cease and determine, and be deemed to have ceased and determined.

Accounts of Bullion, Notes in circulation, &c. to be sent weekly to the Chancellor of the Exchequer for the time being.

And be it Enacted, That an Account of the amount of Bullion and Securities in the Bank of Ireland belonging to the said Governor and Company, and of Notes in circulation, and of Deposits in the said Bank, shall be transmitted weekly to the Chancellor of the Exchequer for the time being, and such Accounts shall be consolidated at the end of every month, and an average state of the Bank Accounts of the preceding Three Months, made from such consolidated Accounts as aforesaid, shall be published every month in the next succeeding Dublin Gazette.

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55 Geo. 3, c. 100.

So much of recited Act 53 Geo. 3, c. 100, as exempts Bank Notes, &c. from the Duty thereby made payable, and authorizing compensation to be made in lieu, shall be repealed.

And be it Enacted, That so much of an Act passed in the fiftyfifth year of the reign of his Majesty King George the Third, intituled, "An Act to provide for the Collection and Management of Stamp Duties payable on Bills of Exchange, Promissory Notes, Receipts and Game Certificates in Ireland," as exempts Bank Notes and Bank Post Bills issued by the Governor and Company of the Bank of Ireland from any of the said duties by the said Act or any other Act charged and made payable, and as authorizes any compensation to be made by or received from the said Governor and Company, for and in lieu of stamp duties payable on Bank Notes and Bank 25 Post Bills issued by them, shall, from and after the expiration of Ten Days after the passing of this Act, be and the same is hereby repealed: Provided always, That nothing herein contained shall extend or be construed to extend to charge the said Governor and Company with the payment of any duty for any such Notes or Bills, during the time for which any such compensation shall have been actually and bonâ fide paid and made before the passing of this Act.

Bankers, though exceeding Six in number, may draw or accept Bills payable at not less than Ten Days' sight, and for not less than 10l. in amount.

And be it Enacted, That from and after the passing of this Act, it shall and may be lawful for any number of persons united or to be united in any society or co-partnership in Ireland, consisting of more than Six in number, to draw or accept any Bill of Exchange whatsoever which shall not be payable at a shorter date than Ten Days' sight, and which shall not be for an amount less than Ten Pounds, all the individuals composing such society or co-partnership being liable and responsible for the due payment of such Bills in like manner as for the due payment of any Bill which they may now lawfully make, accept

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accept or issue, any thing contained in the hereinbefore recited Act made in the Parliament of Ireland in the twenty-first and twenty-second years of the reign of his Majesty King George the Third, or in the said recited Acts of the first and second years, or of the sixth year of King George the Fourth, or of the first year of his late Majesty, or in any other Act or Acts, or any law, usage or custom to the contrary notwithstanding.

And be it Enacted, That it shall and may be lawful for any number of persons united, or to be united, in any society or co-partnership in 10 Ireland, consisting of more than Six in number, and issuing at any establishment or house of business, at any place or places exceeding the distance of Fifty Miles of the late Irish measurement from Dublin, and not elsewhere, any Bills or Notes of such society or co-partnership, made payable to bearer, on demand, at the place or places where such Bills or 15 Notes may be so issued, to have another house or houses of business in Dublin, or within the said distance of Dublin, and to pay thereat their said Bills or Notes payable to bearer on demand, for the purpose of withdrawing them from circulation in Dublin; and no such society or co-partnership shall, by reason of having such other house or houses of business as aforesaid, for such purpose as aforesaid, be deemed or taken to be a society or co-partnership, having their establishments or houses of business less than Fifty Miles of the late Irish. measurement from Dublin, within the meaning of the said recited Acts or this Act.

Banks issuing Notes at places Fifty Miles from Dublin may have houses of business within that limit, for all purposes, except the issue or resissue of such Notes.

Provided always, and be it Enacted, That nothing in this Act con-25 tained shall extend, or be construed to extend, to exempt any society or co-partnership from any penalties they are now liable to, for having already borrowed, owed or taken up any sum or sums of money on any Promissory Note or Bill of any such society or co-partnership, or for having made or issued or re-issued any Bill or Note of such society or co-partnership contrary to the provisions of the said recited Acts, and that nothing herein contained shall be construed to authorize or empower any such society or co-partnership to borrow, owe or take up any sum or sums of money in England or in Dublin, or within 35 Fifty Miles of the late Irish measurement thereof, nor to make or issue or re-issue any Bill or Bills of Exchange or Promissory Note or Notes of such society or co-partnership, contrary to the provisions of the said recited Act of the twenty-first and twenty-second years of the reign of his Majesty King George the Third, save as provided by the said recited Acts of the first and second years and of the sixth year of the reign of his Majesty King George the Fourth, and of the first year of his late Majesty, and by this Act.

This Act not to exempt Bankers from penalties previously incurred, nor to authorize them to borrow money contrary to 21 & 22 Geo.3, same as provided by the recited Acts and this Act.

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Provided

This Act not to prejudice present powers of Bankers; but not to give power of issuing or reissuing Notes payable on demand at Dublin, or within Fifty Irish miles therefrom.

Provided also, and be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, to abridge or prejudice, or to put any construction on the said recited Acts, or any of them, tending to abridge or prejudice any powers or privileges which any such societies or co-partnerships are authorized and entitled to use or exercise, under or by virtue of the hereinbefore recited Acts, or any of them, save and except that no such societies or co-partnerships are or shall be considered as authorized or empowered by the said recited Acts, or any of them, or this Act, to issue or re-issue any Bills or Notes made payable to bearer on demand in Dublin, or any place within 10 Fifty Miles of the late Irish measurement thereof.

16. Sections 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22 and 24 of 6 Geo. 4, c. 42, recited.

AND whereas by the said recited Act passed in the sixth year of the reign of his Majesty King George the Fourth, it was among other things enacted, that between the Twenty-fifth day of March in any. year, and the Twenty-fifth day of March following, an account or 15 return should be made out by the Secretary, or some other officer, of every society or co-partnership in Ireland, consisting of more than Six in number, and not having the establishments or houses of business of such society or co-partnership at any place or places less than Fifty Miles distant from Dublin, and that such account or return should be 20 signed by such Secretary or other officer, and should be verified by the oath of such officer taken before any Justice of the Peace (and which oath any Justice of the Peace was thereby authorized and empowered to administer), according to the form contained in the Schedule, Number 1, to the now reciting Act annexed; and that in every such account 25 or return there should be set forth the true name or firm of such society or co-partnership, and also the names and places of abode of all the partners concerned or engaged in such society or co-partnership, as the same respectively appear on the books of such society or co-partnership, and the firm and name of and every bank or banks established or to be 30 established by such society or co-partnership, and also the names of Two or more individuals of such society or co-partnership resident in Ireland, each and every of whom should respectively be considered as a public officer of such society or co-partnership, and the title of office or other description of every such individual respectively, in the name 35 of any one of whom such society or co-partnership should sue and be sued, as in the said now reciting Act provided, and also the name of every town and place where any such Bills or Notes should be issued by any such society or co-partnership, or by any agent or agents of any such society or co-partnership; and that every such account or return 40 should be produced at the Stamp Office in Dublin, and an entry and registry thereof made in a book or books to be kept for that purpose at the said Stamp Office by some person or persons to be appointed for that purpose by the Commissioners of Stamp Duties; and that if, after the passing of the now reciting Act, any such society or co-partnership should

should omit or neglect to deliver at the Stamp Office in Dublin such account and return as is by such Act required, such society or co-partnership should, for each and every week they should so neglect to make such account and return, forfeit the sum of Five hundred Pounds; and it was by the now reciting Act further enacted, that whenever any entry and registry of the firm or name of any such society or copartnership should be made at the Stamp Office, in manner aforesaid, at any time between the Twenty-fifth day of March in any year, and the Twonty-fifth day of March following, a regrificate of such entry or re-10 gistry should be granted by the said Commissioners of Stamps, or by some person deputed and authorized by the said Commissioners for that purpose, to the society or co-partnership by or on whose behalf such entry or registry should be made, and that such certificate should be written on vellum, parchment or paper, duly stamped with the stamp 15 required by law for certificates to be taken out yearly by any Banker or Bankers in Ireland; and that a separate and distinct certificate on a separate piece of vellum, parchment or paper, with a separate and distinct stamp, should be granted for and in respect of every town and place where any such Bill or Note should be issued by any such 20 society or co-partnership, or by any agent or agents for or on account of such society or co-partnership; and that every such certificate should specify the proper firm, style, title or name of such society or co-partnership under which such Notes were to be issued, and also the name of the town or place, or the several towns or places where 25 such Notes were to be issued, and the christian and surname and place of abode and title of office or other description of the several individuals named respectively, as the public officers of such society or co-partnership in the name of any one of whom such society or co-partnership should sue and be sued; and that every 30 certificate should be dated on the day on which the same should be granted, and should have effect and continue in force from the day of the date thereof until the Twenty-fifth day of March following, both inclusive, and no longer, and should be sufficient evidence of the appointment and authority of such public officers respectively; anti-35 it was by the now reciting Act further enacted, that all actions and suits, and also all petitions to found any sequestration, or any commission of bankruptcy, against any person or persons who may be at any time indebted to any such society or co-partnership, and all proceedings at law or in equity under any sequestration or commission 40 of bankruptcy, and all other proceedings at law and in equity to be commenced or instituted for or on behalf of any such society or copartnership, against any person or persons, bodies politic or corporate, or others, whether members of such society or co-partnership or otherwise, for recovering any debts or enforcing any claims or demands due to such society or co-partnership, or for any other matter relating to the concerns of such society or co-partnership, should and law-485.

fully might, from and after the passing of the now reciting Act, be commenced or instituted and prosecuted in the name of any one of the public officers nominated as aforesaid for the time being of such society or co-partnership as the nominal plaintiff or petitioner for and on behalf of such society or co-partnership; and that all actions or suits and proceedings at law or in equity to be commenced or instituted by any person or persons, bodies politic or corporate, or others, whether members of such society or co-partnership or otherwise, against such society or co-partnership, should and lawfully might be commenced, instituted and prosecuted against any one of the public 10 officers nominated as aforesaid for the time being of such society or co-partnership as the nominal defendant for and on behalf of such society or co-partnership; and that all indictments, informations and prosecutions by or on behalf of such society or co-partnership, for any stealing or embezzlement of any money, goods, effects, bills, notes, securities or other property of or belonging to such society or copartnership, or for any fraud, forgery, crime or offence committed against or with intent to injure or defraud such society or copartnership, should and lawfully might be had, preferred and carried on in the name of any one of the public officers nominated as aforesaid 20 for the time being of such society or co-partnership; and that in all indictments and informations to be had or preferred by or on behalf of such society or co-partnership against any person or persons whomsoever, notwithstanding such person or persons may happen to be a member or members of such society or co-partnership, it should 25 be lawful and sufficient to state the money, goods, effects, bills, notes, securities or other property of such society or co-partnership, to be the money, goods, effects, bills, notes, securities or other property of any one of the public officers nominated as aforesaid for the time being of such society or co-partnership; and that any forgery, fraud, 30 crime or other offence committed against or with intent to injure or defraud such society or co-partnership should and lawfully might in such indictment or indictments, notwithstanding as aforesaid, be laid or stated to have been committed against or with intent to injure or defraud any one of the public officers nominated as aforesaid for the 35 time being of such society or co-partnership, and that any offender or offenders might thereupon be lawfully convicted for any such forgery, fraud, crime or offence; and that in all other allegations, indictments, informations or other proceedings of any kind whatsoever, in which it otherwise might or would have been necessary to state the names of 40 the persons composing such society or co-partnership, it should and might be lawful and sufficient to state the name of any one of the public officers nominated as aforesaid for the time being of such society or co-partnership; and that the death, resignation, removal, or any act of such public officer should not abate or prejudice any such action, suit, indictment, information, prosecution or other proceeding commenced

menced against or by or on behalf of such society or co-partnership. but that the same might be continued, prosecuted and carried on in the name of any other of the public officers of such society or copartnership for the time being; and it was by the now reciting Act further enacted, that no person or persons, or body or bodies politic or corporate, having or claiming to have any demand upon or against any, such society or corporation, should bring more than one action or suit in respect of such demand; and that the proceedings in any action or, suit by or against any one of the public officers nominated as aforesaid 10 for the time being of such society or co-partnership, might, be pleaded. in bar of any other action or actions, suit or suits, for the same demand, by or against any other of the public officers of such society or copartnership; and it was by the now reciting Act further enacted, that it should and might be lawful for any person or persons obtaining 15 a judgment in any of his Majesty's Courts of Record in Dublin, against any such public officer for the time being of any such society or co-partnership; and such person or persons was and were thereby empowered, by warrant under hand and scal, reciting the effect of such judgment, to authorize any Attorney, 20 or Attornies in Great Britain to appear for such public officer, in an action of debt to be brought in any Court of Record in Great Britain against such public officer at the suit of the person or persons obtaining such judgment in Ireland, and thereupon to confess judgment forthwith in such action for a sum equal to the sum for 25 which judgment should have been so obtained in Ireland, together, with the costs of such proceeding; and that such judgment should be thereupon entered up of record in the said Court in Great Britain against such public officer, and should have the like effect in Great Britain against the members of such society or co-partnership as the 30 original judgment so obtained in Ireland; and it was by the now reciting Act further enacted, that it should and might be lawful for any person or persons obtaining a judgment in any court of law in Great Britain against any such public officer for the time being of any such society or co-partnership in Ireland, and such person or persons was 35 and were thereby empowered, by warrant under hand and seal, reciting the effect of such judgment, to authorize any Attorney or Attornies in Ireland to appear for such public officer in an action of debt to be brought in any Court of Record in Ireland against such public officer, at the suit of the person or persons obtaining such judgment 40 in Great Britain for a sum equal to the sum for which judgment should have been so obtained in Great Britain, together with the costs of such proceeding; and that such judgment should be thereupon entered up of record in the said Court in Ireland against such Public officer, and should have the same effect in Ireland against the mem, bers of such society or co-partnership as the original judgment so obtained in Great Britain; and it was by the now reciting Act further enacted, 485.

enacted, that all and every decree or decrees, order or orders made or pronounced in any suit or proceeding in any Court of Equity against any public officer of any such society or co-partnership should chave the like effect and operation upon and against the property and funds of such society or co-partnership, and upon and against the persons and property of every member thereof as if all the members of such society or co-partnership were parties before the Court to and in any such suit or proceeding; and that it should and might be lawful for any Court in which such order or decree should have been made to cause such order and decree to be enforced against any, every or any 10 member of such society or co-partnership, in like manner as if every member of such society or co-partnership were parties before such Court to and in such suit or proceeding; and it was by the now reciting Act further enacted, that an Act passed in the forty-first year of the reign of King George the Third, intituled, "An Act for the more speedy and effectual Recovery of Debts due to his Majesty, his Heirs and Successors, in Right of the Crown of the United Kingdom of Great Britain and Ireland, and for the better Administration of Justice within the same;" and also an Act passed in the fifth year of his present Majesty, intituled, "An Act to amend an Act of the 20 Forty-first Year of the Reign of his late Majesty King George the Third for the more speedy and effectual Recovery of Debts due to his Majesty, his Heirs and Successors, in Right of the Crown of the United Kingdom of Great Britain and Ireland, and for the better Administration of Justice within the same," should extend to all suits, matters and proceedings in any Court of Equity in England or Ireland, in which any public officer of such society or co-partnership should be a party, in like manner as if all the members of such society or co-partnership were parties before the Court in such suits, matters and proceedings; and it was by the now reciting Act further enacted, that it should and might be lawful for any person or persons obtaining any judgment in any Court of Law, or decree or order in any Court of Equity, against any public officer of any such society or co-partnership, to produce an office copy of such judgment, decree or order, under the seal of the Court in which judgment, decree or order should 35 have been obtained, to one of the principal Clerks in the Court of Session in Scotland, or his deputy, for registration there, and such judgment, decree or order should thereupon be registrable and registered there, in like manner as a bond executed according to the law of Scotland, with a Clause of registration therein contained, and that execution might and should pass upon a decree to be interponed thereto, in like manner as execution passes upon a decree interponed to such bond, and should have the like effect upon and against all and every or any of the members of such society or co-partnership as if such members had executed such bond; and it was by the now reciting Act further enacted, that all and every judgment and judgments which should

at any time after the passing of the said reciting Act be had or recovered or entered up as aforesaid in any action, suit or proceedings in law or equity against any public officer of any such society or co-partnership, should have the like effect and operation upon and against the property of such society or co-partnership, and upon and against the the property of every member thereof, as if such judgment or judgments had been recovered or obtained against such society or co-partnership themselves; and that the bankruptcy, insolvency or stopping payment of any such public officer for the time being of such 10 society or co-partnership in his individual character or capacity, should not be, nor be construed to be, the bankruptcy, insolvency or stopping payment of such society or co-partnership, and that such society or co-partnership and every member thereof, and the capital stock and effects of such society or co-partnership, and the effects of every 15 member of such society or co-partnership, should in all cases, notwithstanding the bankruptcy, insolvency or stopping payment of any such public officer, be attached and attachable, and be in all respects liable to the lawful claims and demands of the creditor and creditors of such society or co-partnership as if no such bankruptcy, insolvency or stop-20 ping payment of such public officer of such society or co-partnership had happened or taken place; and it was by the now reciting Act further enacted, that execution upon any judgment in any action obtained against any public officer for the time being of any such society or co-partnership, whether as plaintiff or defendant, 25 might be issued against any member or members for the time being of such society or co-partnership; and that in case any such execution against any member or members for the time being of such society or co-partnership should be ineffectual for obtaining payment and satisfaction of the amount of such judgment, it should 30 be lawful for the party or parties so having obtained judgment against such public officer for the time being, to issue execution against any person or persons who was or were a member or members of such society or co-partnership at the time when the contract or contracts, or engagement or engagements on which such judgment might 35 have been obtained, was or were entered into: Provided always, that no such execution as last-mentioned should be issued without leave first granted on motion in open Court, by the Court in which such judgment should have been obtained, and which motion should be made on notice to the person or persons sought to be charged, nor 40 after the expiration of Three years next after any such person or persons shall have ceased to be a member or members of such society or . co-partnership; and it was by the now reciting Act provided and enacted, that every such public officer, in whose name any such suit or action should have been commenced, prosecuted or defended, and every person or persons against whom execution upon any judgment obtained or entered up as aforesaid in any such action shall be issued 485.

as aforesaid, should always be reimbursed and fully indemnified for all loss, damages, costs and charges, without deduction, which any such officer or person may have incurred by reason of such execution, out of the funds of such society or co-partnership, or in failure thereof, by contribution from the other members of such society or co-partnership, as in the ordinary cases of co-partnerships; and it was by the now reciting Act further enacted, that if any person or persons, being a member or members of any co-partnership of Bankers in Ireland, should steal or embezzle any money, goods, effects, bills, notes, securities or other property of or belonging to such society or co-partnership, or should commit any fraud, forgery, crime or offence against or with intent to injure or defraud such society or co-partnership, such member or members should be liable to indictment, information, prosecution or other proceeding, in the name of any one of the public officers nominated for the time being of such society or co-partnership, for every such fraud, forgery, crime or offence, and might thereupon be lawfully convicted, as if such person or persons had not been, or was or were not a member or members of such society or co-partnership, any law, usage or custom to the contrary notwithstanding; and it was by the now reciting Act further enacted, that it should and might be lawful for any and every member of any and every such society or co-partnership, their respective executors, administrators and assigns, to sell and transfer any share or shares, or portion or portions of, or the entire stock or interest which any such member respectively should or might be respectively entitled to or possessed of in such society or co-partnership, and the property and funds thereof, subject to such regulations and under such restrictions as may be required by the constitution of such society or co-partnership; and that whenever any such sale and transfer shall be made, a return or account thereof, in the form set forth in the Schedule, marked Number Three, to the now reciting Act annexed, should be made upon oath, in manner thereinbefore directed, by the Secretary or other officer of such society or co-partnership, and be from time to time produced, entered and registered at the Stamp Office in Dublin, in the book containing the then last register of such society or co-partnership; and the person or persons to whom such transfer should be made should be and stand in all respects and to all intents and purposes in the place and stead of the person or persons making such transfer: Provided always, that nothing in the said reciting Act contained should be deemed, taken or construed to discharge or release any member or members making any such transfer as aforesaid, of or from the being liable to or responsible for the due payment of the Bills, Notes and other engagements of such society or co-partnership, existing at the time of the entry or register of such transfer, or of or from any action, suit, judgment or execution in respect of the same, according to the provisions of the said now reciting Act: Provided always, that no such transfer as aforesaid should take

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take place without the consent of the directors for the time being of any such society or co-partnership; nor should any transfer be valid unless signed by One or more of such directors, as the Court of Directors for the time being of such society or copartnership might from time to time determine, in testimony of the Court of Directors having consented to such transfer; and it was by the now reciting Act further enacted, that every penalty, forfeiture and sum of money to be forfeited under the now reciting Act, by reason of any omission or neglect of any of the regulations therein enacted, might be sued for and recovered in any of his Majesty's Courts of Record at Dublin by any person, by action of debt, bill, plaint or information, provided such action be commenced within Twelve calendar months next after such offence committed, in which action there should not be any essoign or wager of law, nor more than one imparlance allowed; and that all sums to be recovered should be applied, one moiety thereof to the use of the person who should sue for the same, and the other moiety to the use of his Majesty, his heirs and successors: And whereas by the hereinbefore recited Act passed in the first year of the reign of his late Majesty, reciting the hereinbefore last-recited Act, it was enacted, that from and after the passing of the said Act of the first year of his late Majesty's reign, it should and might be lawful to and for such societies or co-partnerships from time to time, and at any times between the Twenty-fifth day of March in any year and the Twenty-fifth day of March in the succeeding year, to make out upon oath, and cause to be delivered to the Commissioners of Stamps, in manner mentioned in the said last-recited Act of the sixth year of the reign of King George the Fourth, a further account or return, or further accounts or returns, according to the form contained in the Schedule to the now reciting Act annexed, of 30 the name or names of any person or persons who should have been nominated or appointed a new or additional public officer or public officers of such society or co-partnership, or of the name of any new or additional town or towns, or place or places, where such Bills or Notes were or were intended to be issued, and where the same were 35 to be made payable, or of both or either of the above matters, together or separately; and that such further accounts or returns should from time to time be filed, and kept and entered and registered at the Stamp Office in Dublin, in like manner as is by the said Act of the sixth year of the reign of King GEORGE the Fourth required with 40 respect to the original or annual account or return thereby directed to be made, and that thereupon an additional certificate or additional certificates of such account and return or accounts and returns should be granted by the persons, and in the same manner, and upon the same stamps, and containing the same particulars as in the said recited Act of the sixth year of the reign of his present Majesty particularly mentioned; and which additional certificate or certificates should have 485. effect

Sections 6, 7, 1 Will. 4, c. 32, recited.

effect and continue in force from the day of the date thereof until the Twenty-fifth day of March following, and no longer, and should be sufficient evidence of the appointment and authority of the public officers respectively; and it was by the now reciting Act further enacted, that a copy of any such account or return so filed or kept and registered at the Stamp Office as by the said recited Act of the sixth year of the reign of his present Majesty, and by the now reciting Act directed, and which copy should be certified to be a true copy under the hand or hands of one or more of the Commissioners of Stamps, or other officer or officers of the Stamp Office in London or 10 Dublin for the time being, upon proof made that such certificate had been signed with the handwriting of the person or persons making the same, and whom it should not be necessary to prove to be a Commissioner or Commissioners, officer or officers, should in all proceedings, civil or criminal, and in all cases whatsoever, be received in evidence 15 as proof of the appointment and authority of the public officers named in such account or return, and also of the fact that all persons named therein as members of such society or co-partnership were members thereof at the date of such account or return; and it was by the said reciting Act further enacted, that the said Commissioners of Stamps or other officers of the Stamp Office for the time being should and they were thereby required, upon application made to them by any person or persons requiring a copy, certified according to the now reciting Act, of any such account or return as aforesaid, in order that the same might be produced in evidence, or for any other purpose, to deliver to the person or persons so applying for the same such certified copy, he, she or they paying for the same the sum of Ten Shillings, and no more; and it was by the now reciting Act further enacted and declared to be the true intent and meaning of the said recited Act of the sixth year of the reign of King George the 30 Fourth, that such societies and co-partnerships were not and should not be liable or obliged to make any return or account to the Stamp Office in Dublin of any sale or transfer of their shares which should take place between the Twenty-fifth day of Murch in any year and the Twenty-fifth day of March in the succeeding year; but that the said 35 societies or co-partnerships should only be liable and obliged to make an account or return to the Stamp Office in Dublin once in every year in the manner and containing the particulars in the said Act mentioned; BE it Enacted, That the said hereinbefore recited provisions of the said Acts passed respectively in the sixth year of the reign of his 40 Majesty King George the Fourth, and in the first year of the reign of his late Majesty King WILLIAM the Fourth, shall from and after the passing of this Act apply and extend to any and every society or co-partnership for banking in Ireland, consisting of more than Six persons, and having their establishments or houses of business at Dublin or less than Fifty Miles distant from Dublin, as fully and effectually

The recited sections of 6 Geo. 4, c. 42, and of 1 Will. 4, c. 32, extended to Banking Partnerships within Fifty Miles of Dublin.

effectually as to societies or partnerships consisting of more than Six in number, and not having the establishments or houses of business of such society or co-partnership at any place or places less than Fifty Miles distant from Dublin, and to the members thereof for the time being, during the continuance of such society or co-partnership, whether the same do or shall consist of all, or some only of the persons who originally were, or at the time of the passing of this Act may have subscribed to, or may be members of any such society or co-partnership, or of all or some only of those persons, together with some or other persons, or entirely of some other persons, all of whom became or may become members of such society or co-partnership at any time after the original institution thereof, or subsequent to the passing of this Act.

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17. 3 & 4 Will. 4 c. 98, s. 6.

AND whereas by an Act passed in the third and fourth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for giving to the Corporation of the Governor and Company of the Bank of England certain Privileges for a limited Period, under certain Conditions," it was enacted, that from and after the First day of August One thousand eight hundred and Thirty-four, unless and until Parliament should otherwise direct, a tender of a Note or Notes of the Governor and Company of the Bank of England, expressed to be payable to bearer on demand, should be a legal tender to the amount expressed in such Note or Notes, and should be taken to be valid as a tender to such amount for all sums above Five Pounds on all occasions on which any tender of money may be legally made, so long as the Bank of England should continue to pay on demand their said Notes in legal coin: Provided always, that no such Note or Notes should be deemed a legal tender of payment by the Governor and Company of the Bank of England, or any Branch Bank of the said Governor and Company: AND whereas doubts have arisen as to the extent of the said Enactment; for removal whereof, BE it Enacted and Declared, That nothing in the said last-recited Act contained shall extend or be construed to extend to make the tender of a Note or Notes of the Governor and Company of the Bank of England a legal tender in Ireland.

Bank of England Notes not to be a Legal Tender in Ireland.

And be it Enacted, That upon One Year's notice, given within Six Months after the expiration of Ten Years from the First day of August One thousand eight hundred and Thirty-four, and upon repayment by Parliament to the Governor and Company of the Bank of Ireland, or their successors, of the said sum of Six hundred thousand Pounds, as also of the said hereinbefore first-mentioned sum of Five hundred thousand Pounds, as also of the said sum of One million two hundred and fifty thousand Pounds, as also of the said hereinbefore secondly-mentioned sum of Five hundred thousand Pounds, all Irish currency, 485.

18. Exclusive privileges hereby given to end upon One Year's Notice given within Six Months after the expiration of Ten Years from 1834.

as also of all arrears of the said several annuities of Thirty-five thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence and Fifty-six thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence, due at the expiration of such notice, in like manner as is hereinafter stipulated and provided, in the event of such notice being deferred until after the First day of August One thousand eight hundred and Fifty-five, the said several annuities, and the said exclusive privileges of banking granted by the recited Acts and this Act, shall cease and determine at the expiration of such year's notice; and the said Corporation shall be dissolved; and any vote or resolution of The House of Commons, signified by the Speaker of the said House in writing, and delivered at the public office of the Governor and Company of the said Bank, or their successors, shall be deemed and adjudged to be a sufficient notice.

19. Or upon like notice at any time after the 1st of August 1855.

And be it Enacted, That all the powers, authorities, franchises, privileges and advantages given or recognized by the said recited Acts, as belonging to or enjoyed by the Governor and Company of the Bank of Ireland, shall be and the same are hereby declared to be in full force and continued by this Act, except so far as the same are altered by this Act, subject nevertheless to such redemption upon the terms and conditions following; (that is to say) that at any time upon Twelve Months' notice to be given after the First day of August One thousand eight hundred and Fifty-five, and upon repayment by Parliament to the Governor and Company of the said Bank of Ireland, or their successors, of the said sum of Six hundred thousand Pounds, as also of the hereinbefore first-mentioned sum of Five hundred thousand Pounds, as also of the said sum of One million two hundred and fifty thousand Pounds, as also of the hereinbefore secondly mentioned sum of Five hundred thousand Pounds, as also of all arrears of the said several annuities of Thirty-five thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence and Fifty-six thousand five hundred and thirty-eight Pounds Nine Shillings and Twopence, due at the time of such notice to be given as last aforesaid; then and in such case, and not till then (unless under the proviso hereinbefore contained), the said exclusive privileges of banking granted by the said recited Acts and this Act shall cease and determine, and the said Corporation shall be dissolved at the expiration of such notice of Twelve Months.

20. Act may be amended or repealed.

And be it Enacted, That this Act may be altered or repealed by any Act to be passed in this present Session of Parliament.

Bank of Ireland.

(Ireland.)

To continue to the Governor and Company of the Bank of Ireland certain of the Prisubject to certain Conditions. vileges now enjoyed by that Corporation,

(Prepared and brought in by Mr. Chancellor of the Exchequer, Mr. Baring, and Mr. Poulett Thomson.)

Ordered, by The House of Commons, to be Printed, 2 August 1839.

485.





(Ireland.)

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To continue an Act of the last Session of Parliament relating to the Bank of Ireland.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

★與電弧电源台 an Act was passed in the first and second years Preamble. of the reign of his Majesty King George the Fourth, intituled, "An Act to establish an Agreement with the Governor and 1 & 2 G. 4, Company of the Bank of Ireland for advancing the sum of Five hundred thousand Pounds Irish currency, and to empower the said Governor and Company to enlarge the Capital Stock or Fund of the said Bank to Three Millions: " And whereas another Act was passed in the third year of the reign of his said Majesty King GEORGE the Fourth, intituled, "An Act to reduce the Rate of Interest payable on 3 G. 4, c. 26. the Sum of One million two hundred and fifty thousand Pounds advanced by the Governor and Company of the Bank of Ireland for the Public Service, under an Act made in the Forty-eighth Year of his late Majesty:" And whereas the respective sums of Five hundred thousand Pounds and One million two hundred and fifty thousand Pounds advanced by the Governor and Company of the Bank of Ireland for the Public Service, were by the said Acts directed to be repaid on the First day of January One thousand eight hundred and Thirty-eight: And whereas the said period was postponed by an Act passed in the first year of the reign of Her present Majesty, and also by an Act passed in the last Session of Parliament, intituled, "An Act further to postpone, until the First day of January One thousand eight hundred and Forty, the Repayment of certain Sums advanced by the Bank of Ireland for the Public Service:" And whereas the Governor and Company of the Bank of Ireland have agreed that the time for such 545.

Time for repayment of Sums advanced by the Bank of Ireland postponed. such repayment should be further postponed; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said respective sums of Five hundred thousand Pounds Irish currency, and One million two hundred and fifty thousand Pounds Irish currency, shall be repaid to the Governor and Company of the Bank of Ireland on the First day of January One thousand eight hundred and Forty-one, instead of the First day of January One thousand eight hundred and Forty, unless such payments shall be 10 made at an earlier period; and that all powers, provisions, matters and things in the said Acts contained relating to the said sums and to the said day shall extend to the day hereby appointed for the repayment of the said sums in the same manner as if the First day of January One thousand eight hundred and Forty-one had been originally named in the said recited Acts.

(Ireland.)

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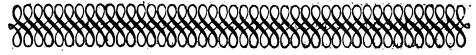
To continue an Act of the last Session of Parliament relating to the Bank of Ireland.

(Prepared and brought in by The Chancellor of the Exchequer and Mr. Baring.)

Ordered, by The House of Commons, to be Printed, 20 August 1839.

23 August 1839.—3 VICT.





(Ireland.)

[AS AMENDED BY THE COMMITTEE]

To continue to the Governor and Company of the Bank of Ireland certain of the Privileges now enjoyed by that Corporation, subject to certain Conditions.

[N. B.—The Clauses marked (A.) to (D.) were added by the Committee.]

中央世界世紀島 the Governor and Company of the Bank of Preamble: Ireland at different times advanced, for the Public Service, to his late Majesty King GEORGE the Third, three several sums of Six hundred thousand Pounds, Five hundred thousand Pounds, and One million two hundred and fifty thousand Pounds, late Irish currency; and to his late Majesty King George the Fourth, a sum of Five hundred thousand Pounds, like currency:

And whereas by virtue of an Act passed in the Parliament of Ireland in the twenty-first and twenty-second years of the reign of his 21 & 22 Goo. Majesty King George the Third, intituled, "An Act for establishing a Bank by the Name of the Governor and Company of the Bank of Ireland;" and of another Act passed in the said Parliament of Ireland in the thirty-first year of the said reign, for extending the provisions 31 Geo. 3, of the said first-recited Act; and of another Act passed in the said Parliament of Ireland in the thirty-sixth year of the said reign, intituled, 36 Geo. 3, "An Act for securing the Payment of the Annuities, and of the Interest upon the Principal Sums therein provided, for and towards the Discharge of such Principal Sums in such manner as therein is directed, and for enabling the Officers of his Majesty's Treasury to receive certain Sums for a limited time in manner therein mentioned, and for granting unto his Majesty a certain Sum of Money

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out of the Consolidated Fund, and for applying a certain Sum of

37 Geo. 3,

48 Geo. 3,

1 & 2 Geo. 4, c. 72.

3 Geo. 4,

J Vict., c. 59.

1 & 2 Vict.,

c. 50.

Money therein mentioned for the Service of the Year One thousand seven hundred and Ninety-six, and for other purposes;" and of another Act passed in the said Parliament of Ireland in the thirty-seventh year of the said reign, for further extending the provisions of the said first-recited Act; and of another Act passed in the Parliament of the United Kingdom in the forty-eighth year of the said reign, intituled, "An Act for further extending the Provisions of several Acts for establishing the Bank of Ireland, and for empowering the Governor and Company of the said Bank to advance the Sum of 10 One million two hundred and fifty thousand Pounds, Irish Currency, towards the Service of the Year One thousand eight hundred and Eight;" and of another Act passed in the first and second years of the reign of his Majesty King GEORGE the Fourth, intituled, "An Act to establish an Agreement with the Governor and Company of the Bank 15 of Ireland for advancing the Sum of Five hundred thousand Pounds, Irish Currency; and to empower the said Governor and Company to enlarge the Capital Stock or Fund of the said Bank to Three Millions;" and of another Act passed in the third year of the said lastmentioned reign, intituled, "An Act to reduce the Rate of Interest 20 payable on the Sum of One million two hundred and fifty thousand Pounds, advanced by the Governor and Company of the Bank of Ireland for the Public Service, under an Act made in the forty-eighth year of his late Majesty;" and of another Act passed in the first year of the reign of Her present Majesty, intituled, "An Act to postpone 25 until the First day of January One thousand eight hundred and Thirty-nine, the Repayment of certain Sums advanced by the Bank of Ireland for the Public Service;" and of another Act passed in the first and second years of the reign of Her present Majesty, intituled, "An Act further to postpone until the First day of January 30 One thousand eight hundred and Forty the Repayment of certain Sums advanced by the Bank of Ireland for the Public Service;" two several annuities of Thirty thousand Pounds and Twenty-five thousand Pounds are now payable to the Governor and Company of the said Bank, and their successors for ever, in respect of the said 35 sum of Six hundred thousand Pounds and the first hereinbefore mentioned sum of Five hundred thousand Pounds, subject nevertheless to redemption, as in the said Acts mentioned; and an annuity of Fifty thousand Pounds is now payable to the Governor and Company of the said Bank in respect of the said sum of One million two hundred 40 and fifty thousand Pounds; and interest at the rate of Four Pounds per centum per annum is now also payable to the Governor and Company of the said Bank on the said secondly hereinbefore mentioned sum of Five hundred thousand Pounds until the First day of January One thousand eight hundred and Forty, unless such sums should be sooner repaid; and such two last-mentioned sums are, under

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the provisions of the said Acts, to be repaid to the Governor and Company of the said Bank on the said First day of January One thousand eight hundred and Forty:

And whereas, under the provisions of the said Acts or some of them, the exclusive privileges of the Governor and Company of the said Bank may, on repayment of the said several sums of money so advanced, and payment of all arrears of the said annuities and interest, and on the giving of certain notices in the said Act mentioned, be terminated, and the Corporation of the Governor and Company of the said Bank may **■**0 be dissolved:

And whereas the said Governor and Company of the Bank of Ireland have agreed that the respective sums of Five hundred thousand Pounds and One million two hundred and fifty thousand Pounds, late Irish currency, advanced by them for the Public Service, and now 15 repayable to them on the First day of January One thousand eight hundred and Forty, shall be repaid at the time and in the manner and upon the terms and conditions hereinafter mentioned; and they have also agreed that the interest on the several sums advanced by them as aforesaid of Six hundred thousand Pounds, Five hundred thousand 20 Pounds, One million two hundred and fifty thousand Pounds, and Five hundred thousand Pounds, all late Irish currency, shall be reduced, provided the privilege of exclusive banking specified in this Act is continued to the said Governor and Company for the period and with the modifications specified in this Act;

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BE it therefore Enacted, by The QUEEN's most Excellent Ma-JESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT so much of the said Bank of Ire-Acts as relates to the dissolving of the said Corporation of the 30 Governor and Company of the Bank of Ireland, upon the notice and payments therein mentioned, and also so much of the said Acts as provides that the hereinbefore mentioned respective sums of Five hundred thousand Pounds and One million two hundred and fifty thousand Pounds, late Irish currency, shall be repaid on the First day of January One thousand eight hundred and Forty, shall be and the same is and are hereby Repealed; and that the Governor and Company of the said Bank of Ireland, and their successors, shall remain, continue and be one body corporate and politic, by the name of the Governor and Company of the Bank of Ireland aforesaid, and continue to hold and enjoy all and every the capacities, privileges and advantages whatsoever, to which the said Governor and Company of the Bank of Ireland now are, or before the passing of this Act were, entitled by the said several hereinbefore recited Acts, or any other Act or Acts of Parliament, and by their charter, with 557.

vileges upon the conditions hereinafter

with the limitations and for the period, and upon the terms and conditions hereinafter mentioned, and subject to the termination of all such capacities, privileges and advantages, at the time and in the manner in this Act specified.

Interest on 600,000 L and 500,000 L due to Bunk reduced to Three-and-a-half per Cent.

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And be it Enacted, That from and after the Twenty-fourth day of June in this present year, there shall be paid and payable for ever, but subject to the condition of redemption hereinafter mentioned, at the receipt of Her Majesty's Exchequer in Dublin, to the Governor and Company of the said Bank of Ireland, out of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, an interest 10 or annuity of Thirty-five thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence, British currency, being a sum equal to the amount of the whole interest of the said sums of Six hundred thousand Pounds and Five hundred thousand Pounds, late Irish currency, at the rate of Three Pounds Ten Shillings per centum 15 per annum, and which annuity or interest shall be paid by two equal half-yearly payments to the Governor and Company of the said Bank, without any defalcation or abatement, on the Twenty-fourth day of June and the Twenty-fifth day of December in each year, the first payment of the said annuity or interest to be made on the Twenty- 20 fifth day of December in this present year; and the said annuity of Thirty-five thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence shall be in lieu and satisfaction of the said two several annuities of Thirty thousand Pounds and Twenty-five thousand Pounds, late Irish currency, now payable to the said Bank under the 25 said recited Acts.

3. Interest on 1,250,000 L and 500,000 L due to Bank reduced to Three-and-a-half per Cent.

And be it Enacted, That from and after the Fifth day of July in this present year, there shall also be paid and payable for ever, but subject to the condition of redemption hereinafter mentioned, at the receipt of Her Majesty's said Exchequer, to the Governor and Company of the said 30 Bank of Ireland, out of the said Consolidated Fund, another interest or annuity of Fifty-six thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence, British currency, being a sum equal to the amount of the whole interest of the said sums of One million two hundred and fifty thousand Pounds and Five hundred thousand Pounds, late 35 Irish currency, at the rate of Three Pounds Ten Shillings per centum per annum, and which annuity or interest shall be paid by Two equal half-yearly payments to the Governor and Company of the said Bank, without any defalcation or abatement, on the Fifth day of January and the Fifth day of July in each year; the first payment of the said 40 annuity or interest to be made on the Fifth day of January One thousand eight hundred and Forty, and the said annuity of Fifty-six thousand five hundred and thirty-eight Pounds Nine Shillings and Twopence shall be in lieu and satisfaction of the said annuity of Fifty thousand Pounds, Irish currency, and of the interest, at the rate of Four

Pounds per centum per annum, on the said sum of Five hundred thousand Pounds, late Irish currency, now payable to the said Bank under the said recited Acts.

And be it Enacted, That the repayment of the said respective sums of Six hundred thousand Pounds, and Five hundred thousand Pounds, and One million two hundred and fifty thousand Pounds, and Five hundred thousand Pounds, all late Irish currency, and the interest thereof at the rate aforesaid, shall be and the same is hereby made chargeable upon the said Consolidated Fund until Parliament shall otherwise provide.

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Repayment of Advances by Bank and Interest charged on dated Fund.

AND whereas by the hereinbefore recited Act passed in the Parliament of Ireland in the thirty-sixth year of the reign of his Majesty King George the Third, a certain annual sum was made payable by the Governor and Company of the said Bank on the Twenty-fourth day of June in every year, into the receipt of his then Majesty's Exchequer, for the use of his said Majesty, his heirs and successors, in respect of the monies of the suitors in his Majesty's Courts and of the public deposited in the said Bank: And whereas other arrangements have been since made in respect of the said Suitors' Fund, and it is reasonable that the said payment by the said Bank of Ireland into the said Exchequer should cease; BE it therefore Enacted, That from and after the Twenty-fourth day of June in this Annual pay present year, the same shall cease and determine, and be deemed to have ceased and determined.

6th sec. of 36

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And be it Enacted, That an Account of the amount of Bullion and Securities in the Bank of Ireland belonging to the said Governor and Company, and of Notes in circulation, and of Deposits in the said Bank, shall be transmitted weekly to the Chancellor of the Exchequer for the time being, and such Accounts shall be consolidated at the end of every month, and an average state of the Bank Accounts of the preceding Three Months, made from such consolidated Accounts as aforesaid, shall be published every month in the next succeeding London and Dublin Gazette.

AND whereas it is expedient that the name or names of the 35 person or persons entrusted and authorized by the Governor and Company of the said Bank to sign their Promissory Notes on behalf of the Governor and Company of the said Bank, should be impressed by machinery, in such form as may from time to time be adopted by the Governor and Company of the said Bank, instead of being 40 subscribed in the hand writing of such person or persons respectively; AND whereas doubts may arise respecting the validity of such notes; BE it therefore Declared and Enacted, That all Promissory Notes 557. of

6. Accounts of Bullion, culation, &c. to be sent weekly to the Chancellor of the Exchetime being.

Bank may cause an impression to be made upon the Notes by Machinery in lieu of Signaof the Governor and Company of the said Bank, whereon the name or names of any person intrusted or authorized to sign such notes on behalf of the Governor and Company of the said Bank shall or may be impressed by machinery provided for that purpose by the Governor and Company of the said Bank, and with the authority of the Governor and Company of the said Bank, shall be and be taken to be good and valid to all intents and purposes, as if such notes had been subscribed in the proper hand-writing of the person or persons intrusted or authorized by the Governor and Company of the said Bank to sign the same respectively, and shall be deemed and taken to be Bank Notes within the meaning of all laws and statutes whatsoever, and shall and may be described as Bank Notes in all indictments and other criminal and civil proceedings whatsoever; any law, statute or usage to the contrary notwithstanding.

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55 Geo. 3, c. 100.

So much of recited Act 53 Geo. 3, c. 100, as exempts Bank Notes, &c. from the Duty thereby made payable, and authorizing compensation to be made in lieu, shall be repealed.

And be it Enacted, That so much of an Act passed in the fiftyfifth year of the reign of his Majesty King George the Third, intituled, "An Act to provide for the Collection and Management of Stamp Duties payable on Bills of Exchange, Promissory Notes, Receipts and Game Certificates in Ireland," as exempts Bank Notes and Bank Post Bills issued by the Governor and Company of the 20 Bank of Ireland from any of the said duties by the said Act or any other Act charged and made payable, upon payment of such compensation as in the said Act mentioned, for and in lieu of the stamp duties payable on Bank Notes and Bank Post Bills issued by them, shall be and the same is hereby repealed: Provided always, That nothing herein contained shall extend or be construed to extend to charge the said Governor and Company with the payment of any duty or composition as hereinafter provided, for any such Notes or Bills, during the time for which any such compensation shall have been actually and bona fide paid and made before the passing of this Act.

CLAUSE (B.) Bank of Ireland issuing Notes, to pay acertainComosition for Stamps on the average amount in circulation.

Provided always, and be it Enacted, That it shall and may be lawful for the Governor and Company of the said Bank of Ireland to issue on unstamped paper their Promissory Notes, being respectively for any sum not exceeding One hundred Pounds, expressed to be payable to the bearer on demand, or to order at any period, not exceeding Seven Days after date; and that the Governor and Company of the said Bank do and shall from time to time enter or cause to be entered in a book or books to be kept for that purpose, an account of all such unstamped Notes as they shall so issue, specifying the amount or value thereof respectively, and the several dates of the 40 issuing thereof; and in like manner also a similar account of all such unstamped Notes as, having been issued as aforesaid, shall have been cancelled, and the dates of the cancelling thereof, and do and shall from time to time, when thereunto requested, produce and show such

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accounts

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accounts to, and permit the same to be examined and inspected by, the Commissioners of Stamps and Taxes, or any officer of Stamps appointed under the hands and seals of the said Commissioners for that purpose; and also do and shall deliver to the said Commissioners of Stamps and Taxes half yearly, (that is to say) within Fourteen Days after the First day of January and the First day of July in every year, a just and true account in writing, verified upon the oath or affirmation (which any Justice of the Peace is hereby empowered to administer), to the best of the knowledge and belief of their accountant general, or of such other officer as shall be deputed by the Governor and Company of the said Bank to act in behalf of such accountant general, of the amount or value of all unstamped Notes issued under the provisions of this Act in circulation within the meaning of this Act on a given day, (that is to say) on Saturday in every week, for the space of half a year prior to the half-yearly day immediately preceding the delivery of such account, together with the average amount or value of such Notes so in circulation according to such account; and also do and shall pay or cause to be paid to the Receiver General of Stamp Duties in Ireland, or to some other person duly authorized by the Commissioners of Stamps and Taxes to receive the same, as a composition for the duties which would otherwise have been payable for such unstamped Notes issued or in circulation during such half year, the sum of One Shilling and Sixpence for every One hundred Pounds, and also for the fractional part of One hundred Pounds of the said average amount or value of such Notes in circulation, according to the true intent and meaning of this Act.

And be it Enacted, That every unstamped Promissory Note issued under the provisions of this Act, shall, for the purpose of payment of duty, be deemed to be in circulation from the day of the issuing to the day of the cancelling thereof, both days inclusive, excepting nevertheless the period during which such Note shall be in the hands of the Cashier or any other Public Officer of the said Bank of Ireland.

10.
CLAUSE (C.)
For what
periods Notes
are to be
deemed in
circulation.

And be it Enacted, That from and after the passing of this Act, it shall and may be lawful for any number of persons united or to be united in any society or co-partnership in Ireland, consisting of more than Six in number, to draw or accept any Bill of Exchange whatsoever which shall not be payable at a shorter date than Ten Days' after sight, and which shall not be for an amount less than Ten Pounds, all the individuals composing such society or co-partnership being liable and responsible for the due payment of such Bills in like manner as for the due payment of any Bill which they may now lawfully make, accept or issue, any thing contained in the hereinbefore recited Act made in the Parliament of Ireland in the twenty-first and twenty-second years of the reign of his Majesty King George the Third, or 557.

Bankers, though exceeding Six in number, may draw or accept Bills payable at not less than Ten Days' sight, and for not less than 101 in amount.

in the said recited Acts of the first and second years, or of the sixth year of King George the Fourth, or of the first year of his late Majesty, or in any other Act or Acts, or any law, usage or custom to the contrary notwithstanding.

12. Banks issuing Notes at places Fifty Miles from Dublin may have houses of business within that limit for all but certain purposes.

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And be it Enacted, That it shall and may be lawful for any number of persons united, or to be united, in any society or co-partnership in Ireland, consisting of more than Six in number, and issuing at any establishment or house of business, at any place or places exceeding the distance of Fifty Miles of the late Irish measurement from Dublin, and not elsewhere, any Bills or Notes of such society or co-partnership, made payable to bearer, on demand, at the place or places where such Bills or Notes may be so issued, to have another house or houses of business in Dublin, and to pay thereat their said Bills or Notes payable to bearer on demand, for the purpose of withdrawing them from circulation in Dublin, or within the said distance of Dublin, and also to draw, accept, and pay thereat, their Bills of Exchange payable at not less than Ten Days after sight, for an amount not less than Ten Pounds; and to transact thereat any other business of such society or copartnership, save and except the issuing or reissuing their notes payable to Bearer on demand, and also save and except the keeping of cash of, or for any person or persons, or the keeping of deposit accounts to be drawn upon cheques or drafts; and no such society or co-partnership shall, by reason of having such other house or houses of business as aforesaid, for such purposes as aforesaid, or transacting thereat the business of such society or co-partnership, save as aforesaid, be deemed or taken to be a society or co-partnership, having their establishments or houses of business less than Fifty Miles of the late Irish measurement from Dublin, within the meaning of the said recited Acts or this Act.

13. This Act not to exempt Bankers from penaltiespre-viously incurred, nor to authorize them to borrow money contrary to 21 & 22 Geo.3, same as provided by the recited Acts and this Act.

Provided always, and be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, to exempt any society or co-partnership from any penalties they are now liable to, for having already borrowed, owed or taken up any sum or sums of money on any Promissory Note or Bill of any such society or co-partnership, or for having made or issued or re-issued any Bill or Note of such society or co-partnership contrary to the provisions of the said recited Acts, and that nothing herein contained shall be construed to authorize or empower any such society or co-partnership to borrow, owe or take up any sum or sums of money in England or in Dublin, or within Fifty Miles of the late Irish measurement thereof, nor to make or issue or re-issue any Bill or Bills of Exchange or Promissory Note or Notes of such society or co-partnership, contrary to the provisions of the said recited Act of the twenty-first and twenty-second years of the reign of his Majesty King George the Third, save as provided by the said recited

recited Acts of the first and second years and of the sixth year of the reign of his Majesty King George the Fourth, and of the first year of his late Majesty, and by this Act.

Provided also, and be it Enacted, That nothing in this Act contained shall extend, or be construed to extend, to abridge or prejudice, or to put any construction on the said recited Acts, or any of them, tending to abridge or prejudice any powers or privileges which any societies or co-partnerships are authorized and entitled to use or exercise, under or by virtue of the hereinbefore recited Acts, or any of them, save and except that no societies or co-partnerships are or shall be considered as authorized or empowered by the said recited Acts, or any of them, or this Act, to issue or re-issue any Bills or Notes made payable to bearer on demand in Dublin, or any place within Fifty Miles of the late Irish measurement thereof; and that no society 15 or co-partnership consisting of more than Six persons, and issuing at any establishment or house of business at any place exceeding the distance of Fifty Miles, late Irish measurement, from Dublin, any Bills or Notes of such society or co-partnership made payable to bearer on demand, shall be considered as authorized or empowered to keep cash of or for any person or persons at, or to keep deposit accounts to be drawn upon by cheques or drafts at any house or houses of business in Dublin which under the provisions of this Act they may lawfully have.

This Act not to prejudice present owers of but not to give power of issuing or reissuing Notes payable on demand at Dublin, or within Fifty Irish miles nor to authorize Banks of ssue to keep deposit ac counts in Dublin.

AND whereas by the said recited Act passed in the sixth year of the reign of his Majesty King George the Fourth, it was among other things enacted, that between the Twenty-fifth day of March in any year, and the Twenty-fifth day of March following, an account or return should be made out by the Secretary, or some other officer, of every society or co-partnership in Ireland, consisting of more than Six in number, and not having the establishments or houses of business of such society or co-partnership at any place or places less than Fifty Miles distant from Dublin, and that such account or return should be signed by such Secretary or other officer, and should be verified by the oath of such officer taken before any Justice of the Peace (and which oath any Justice of the Peace was thereby authorized and empowered to administer), according to the form contained in the Schedule, Number 1, to the now reciting Act annexed; and that in every such account or return there should be set forth the true name or firm of such society or co-partnership, and also the names and places of abode of all the partners concerned or engaged in such society or co-partnership, as the same respectively appear on the books of such society or co-partnership, and the firm and name of and every bank or banks established or to be established by such society or co-partnership, and also the names of Two or more individuals of such society or co-partnership resident in Ireland, each and every of whom should respectively be considered as a public officer of such society or co-partnership, and the title of office

15. Sections 6, 7, 10, 11, 12, 13, 14, 15, 16, 17, 18, 19, 20, 22 and 24 of 6 Geo. 4, c. 42, recited.

or other description of every such individual respectively, in the name of any one of whom such society or co-partnership should sue and be sued, as in the said now reciting Act provided, and also the name of every town and place where any such Bills or Notes should be issued by any such society or co-partnership, or by any agent or agents of any such society or co-partnership; and that every such account or return should be produced at the Stamp Office in Dublin, and an entry and registry thereof made in a book or books to be kept for that purpose at the said Stamp Office by some person or persons to be appointed for that purpose by the Commissioners of Stamp Duties; and that if, after 10 the passing of the now reciting Act, any such society or co-partnership should omit or neglect to deliver at the Stamp Office in Dublin such account and return as is by such Act required, such society or co-partnership should, for each and every week they should so neglect to make such account and return, forfeit the sum of Five hundred Pounds; 15 and it was by the now reciting Act further enacted, that whenever any entry and registry of the firm or name of any such society or copartnership should be made at the Stamp Office, in manner aforesaid, at any time between the Twenty-fifth day of March in any year, and the Twenty-fifth day of March following, a certificate of such entry or re- 20 gistry should be granted by the said Commissioners of Stamps, or by some person deputed and authorized by the said Commissioners for that purpose, to the society or co-partnership by or on whose behalf such entry or registry should be made, and that such certificate should be written on vellum, parchment or paper, duly stamped with the stamp 25 required by law for certificates to be taken out yearly by any Banker or Bankers in Ireland; and that a separate and distinct certificate on a separate piece of vellum, parchment or paper, with a separate and distinct stamp, should be granted for and in respect of every town and place where any such Bill or Note should be issued by any such 30 society or co-partnership, or by any agent or agents for or on account of such society or co-partnership; and that every such certificate should specify the proper firm, style, title or name of such society or co-partnership under which such Notes were to be issued, and also the name of the town or place, or the several towns or places where 35 such Notes were to be issued, and the christian and surname and place of abode and title of office or other description of the several individuals named respectively, as the public officers of such society or co-partnership in the name of any one of whom such society or co-partnership should sue and be sued; and that every 40 certificate should be dated on the day on which the same should be granted, and should have effect and continue in force from the day of the date thereof until the Twenty-fifth day of March following, both inclusive, and no longer, and should be sufficient evidence of the appointment and authority of such public officers respectively; and it was by the now reciting Act further enacted, that all actions and

and suits, and also all petitions to found any sequestration, or any commission of bankruptcy, against any person or persons who may be at any time indebted to any such society or co-partnership, and all proceedings at law or in equity under any sequestration or commission of bankruptcy, and all other proceedings at law and in equity to be commenced or instituted for or on behalf of any such society or copartnership, against any person or persons, bodies politic or corporate, or others, whether members of such society or co-partnership or otherwise, for recovering any debts or enforcing any claims or demands 10 due to such society or co-partnership, or for any other matter relating to the concerns of such society or co-partnership, should and lawfully might, from and after the passing of the now reciting Act, be commenced or instituted and prosecuted in the name of any one of the public officers nominated as aforesaid for the time being of such 15 society or co-partnership as the nominal plaintiff or petitioner for and on behalf of such society or co-partnership; and that all actions or suits and proceedings at law or in equity to be commenced or instituted by any person or persons, bodies politic or corporate, or others, whether members of such society or co-partnership or other-20 wise, against such society or co-partnership, should and lawfully might be commenced, instituted and prosecuted against any one of the public officers nominated as aforesaid for the time being of such society or co-partnership as the nominal defendant for and on behalf of such society or co-partnership; and that all indictments, informations and 25 prosecutions by or on behalf of such society or co-partnership, for any stealing or embezzlement of any money, goods, effects, bills, notes, securities or other property of or belonging to such society or copartnership, or for any fraud, forgery, crime or offence committed against or with intent to injure or defraud such society or co-30 partnership, should and lawfully might be had, preferred and carried on in the name of any one of the public officers nominated as aforesaid for the time being of such society or co-partnership; and that in all indictments and informations to be had or preferred by or on behalf of such society or co-partnership against any person or persons 35 whomsoever, notwithstanding such person or persons may happen to be a member or members of such society or co-partnership, it should be lawful and sufficient to state the money, goods, effects, bills, notes, securities or other property of such society or co-partnership, to be the money, goods, effects, bills, notes, securities or other property of 40 any one of the public officers nominated as aforesaid for the time being of such society or co-partnership; and that any forgery, fraud, crime or other offence committed against or with intent to injure or defraud such society or co-partnership should and lawfully might in such indictment or indictments, notwithstanding as aforesaid, be laid or stated to have been committed against or with intent to injure or defraud any one of the public officers nominated as aforesaid for the 557.

time being of such society or co-partnership, and that any offender or offenders might thereupon be lawfully convicted for any such forgery, fraud, crime or offence; and that in all other allegations, indictments, informations or other proceedings of any kind whatsoever, in which it otherwise might or would have been necessary to state the names of the persons composing such society or co-partnership, it should and might be lawful and sufficient to state the name of any one of the public officers nominated as aforesaid for the time being of such society or co-partnership; and that the death, resignation, removal, or any act of such public officer should not abate or prejudice any such action, suit, indictment, information, prosecution or other proceeding commenced against or by or on behalf of such society or co-partnership, but that the same might be continued, prosecuted and carried on in the name of any other of the public officers of such society or copartnership for the time being; and it was by the now reciting Act further enacted, that no person or persons, or body or bodies politic or corporate, having or claiming to have any demand upon or against any such society or corporation, should bring more than one action or suit in respect of such demand; and that the proceedings in any action or suit by or against any one of the public officers nominated as aforesaid for the time being of such society or co-partnership might be pleaded in bar of any other action or actions, suit or suits, for the same demand, by or against any other of the public officers of such society or copartnership; and it was by the now reciting Act further enacted, that it should and might be lawful for any person or persons obtaining a judgment in any of his Majesty's Courts of Record in Dublin, against any such public officer for the time being of any such society or co-partnership; and such person or persons was and were thereby empowered, by warrant under hand and seal, reciting the effect of such judgment, to authorize any Attorney or Attornies in Great Britain to appear for such public officer in an action of debt to be brought in any Court of Record in Great Britain against such public officer at the suit of the person or persons obtaining such judgment in Ireland, and thereupon to confess judgment forthwith in such action for a sum equal to the sum for which judgment should have been so obtained in Ireland, together with the costs of such proceeding; and that such judgment should be thereupon entered up of record in the said Court in Great Britain against such public officer, and should have the like effect in Great Britain against the members of such society or co-partnership as the original judgment so obtained in Ireland; and it was by the now reciting Act further enacted, that it should and might be lawful for any person or persons obtaining a judgment in any court of law in Great Britain against any such public officer for the time being of any such society or co-partnership in Ireland, and such person or persons was and were thereby empowered, by warrant under hand and seal, recit-

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ing the effect of such judgment, to authorize any Attorney or Attornies in Ireland to appear for such public officer in an action of debt to be brought in any Court of Record in Ireland lagainst such public officer, at the suit of the person or persons obtaining such judgment in Great Britain for a sum equal to the sum for which judgment should have been so obtained in Great Britain, together with the costs of such proceeding; and that such judgment should be thereupon entered up of record in the said Court in Ireland against such Public officer, and should have the same effect in Ireland against the members of such society or co-partnership as the original judgment so obtained in Great Britain; and it was by the now reciting Act further enacted, that all and every decree or decrees, order or orders made or pronounced in any suit or proceeding in any Court of Equity against any public officer of any such society or co-partnership should 15 have the like effect and operation upon and against the property and funds of such society or co-partnership, and upon and against the persons and property of every member thereof as if all the members of such society or co-partnership were parties before the Court to and in any such suit or proceeding; and that it should and might be lawful for any Court in which such order or decree should have been made to cause such order and decree to be enforced against any, every or any member of such society or co-partnership, in like manner as if every member of such society or co-partnership were parties before such Court to and in such suit or proceeding; and it was by the now recit-25 ing Act further enacted, that an Act passed in the forty-first year of the reign of King George the Third, intituled, "An Act for the more speedy and effectual Recovery of Debts due to his Majesty, his Heirs and Successors, in Right of the Crown of the United Kingdom of Great Britain and Ireland, and for the better Administration of Justice 30 within the same;" and also an Act passed in the fifth year of his present Majesty, intituled, "An Act to amend an Act of the Forty-first Year of the Reign of his late Majesty King GEORGE the Third for the more speedy and effectual Recovery of Debts due to his Majesty, his Heirs and Successors, in Right of the Crown of the United Kingdom of Great Britain and Ireland, and for the better Administration of Justice within the same," should extend to all suits, matters and proceedings in any Court of Equity in England or Ireland, in which any public officer of such society or co-partnership should be a party, in like manner as if all the members of such society or co-partnership were parties before the Court in such suits, matters and proceedings; and it was by the now reciting Act further enacted, that it should and might be lawful for any person or persons obtaining any judgment in any Court of Law, or decree or order in any Court of Equity, against any public officer of any such society or co-partnership, to produce an office copy of such judgment, decree or order, under the seal of the Court in which judgment, decree or order should в 3 557.

have been obtained, to one of the principal Clerks in the Court of Session in Scotland, or his deputy, for registration there, and such judgment, decree or order should thereupon be registrable and registered there, in like manner as a bond executed according to the law of Scotland, with a Clause of registration therein contained, and that execution might and should pass upon a decree to be interponed thereto, in like manner as execution passes upon a decree interponed to such bond, and should have the like effect upon and against all and every or any of the members of such society or co-partnership as if such members had executed such bond; and it was by the now reciting Act further 10 enacted, that all and every judgment and judgments which should at any time after the passing of the said reciting Act be had or recovered or entered up as aforesaid in any action, suit or proceedings in law or equity against any public officer of any such society or co-partnership, should have the like effect and operation upon 15 and against the property of such society or co-partnership, and upon and against the the property of every member thereof, as if such judgment or judgments had been recovered or obtained against such society or co-partnership themselves; and that the bankruptcy, insolvency or stopping payment of any such public officer for the time being of such 20 society or co-partnership in his individual character or capacity, should not be, nor be construed to be, the bankruptcy, insolvency or stopping payment of such society or co-partnership, and that such society or co-partnership and every member thereof, and the capital stock and effects of such society or co-partnership, and the effects of every 25 member of such society or co-partnership, should in all cases, notwithstanding the bankruptcy, insolvency or stopping payment of any such public officer, be attached and attachable, and be in all respects liable to the lawful claims and demands of the creditor and creditors of such society or co-partnership as if no such bankruptcy, insolvency or stop- 36 ping payment of such public officer of such society or co-partnership had happened or taken place; and it was by the now reciting Act further enacted, that execution upon any judgment in any action obtained against any public officer for the time being of any such society or co-partnership, whether as plaintiff or defendant, 35 might be issued against any member or members for the time being of such society or co-partnership; and that in case any such execution against any member or members for the time being of such society or co-partnership should be ineffectual for obtaining payment and satisfaction of the amount of such judgment, it should 40 be lawful for the party or parties so having obtained judgment against such public officer for the time being, to issue execution against any person or persons who was or were a member or members of such society or co-partnership at the time when the contract or contracts, or engagement or engagements on which such judgment might have been obtained, was or were entered into: Provided always, That

That no such execution as last-mentioned should be issued without leave first granted on motion in open Court, by the Court in which such judgment should have been obtained, and which motion should be made on notice to the person or persons sought to be charged, nor. after the expiration of Three years next after any such person or persons shall have ceased to be a member or members of such society or co-partnership; and it was by the now reciting Act provided and enacted, that every such public officer, in whose name any such suitor action should have been commenced, prosecuted or defended, and 10 every person or persons against whom execution upon any judgment obtained or entered up as aforesaid in any such action shall be issued as aforesaid, should always be reimbursed and fully indemnified for all loss, damages, costs and charges, without deduction, which any such officer or person may have incurred by reason of such execution, out 15. of the funds of such society or co-partnership, or in failure thereof, by contribution from the other members of such society or co-partnership, as in the ordinary cases of co-partnerships; and it was by the now, reciting Act further enacted, that if any person or persons, being a member or members of any co-partnership of Bankers in Ireland, should 20 steal or embezzle any money, goods, effects, bills, notes, securities or other property of or belonging to such society or co-partnership, or should commitany fraud, forgery, crime or offence against or with intent to injure or defraud such society or co-partnership, such member or members should be liable to indictment, information, prosecution 25 or other proceeding, in the name of any one of the public officers nominated for the time being of such society or co-partnership, for every such fraud, forgery, crime or offence, and might thereupon be lawfully convicted, as if such person or persons had not been, or was or were not a member or members of such society or co-partnership, any law, 30 usage or custom to the contrary notwithstanding; and it was by the now reciting Act further enacted, that it should and might be lawful for any and every member of any and every such society or co-partnership, their respective executors, administrators and assigns, to sell and transfer any share or shares, or portion or portions of, or the entire 35 stock or interest which any such member respectively should or might be respectively entitled to or possessed of in such society or co-partnership, and the property and funds thereof, subject to such regulations and under such restrictions as may be required by the constitution of such society or co-partnership; and that whenever any such sale and 40 transfer shall be made, a return or account thereof, in the form set forth in the Schedule, marked Number Three, to the now reciting Act annexed, should be made upon oath, in manner thereinbefore directed, by the Secretary or other officer of such society or co-partnership, and be from time to time produced, entered and registered at the Stamp Office in Dublin, in the book containing the then last register of such society or co-partnership; and the person or persons to whom such transfer 557.

transfer should be made should be and stand in all respects and to all intents and purposes in the place and stead of the person or persons making such transfer: Provided always, that nothing in the said

reciting Act contained should be deemed, taken or construed to discharge or release any member or members making any such transfer as aforesaid, of or from the being liable to or responsible for the due payment of the Bills, Notes and other engagements of such society or co-partnership, existing at the time of the entry or register of such transfer, or of or from any action, suit, judgment or execution in respect of the same, according to the provisions of the said now reciting Act: Provided always, that no such transfer as aforesaid should take place without the consent of the directors for the time being of any such society or co-partnership; nor should uny transfer be valid unless signed by One or more of such directors, as the Court of Directors for the time being of such society or co- 15 partnership might from time to time determine, in testimony of the Court of Directors having consented to such transfer; and it was by the now reciting Act further enacted, that every penalty, forfeiture and sum of money to be forfeited under the now reciting Act, by reason of any omission or neglect of any of the regulations therein 20 enacted, might be sued for and recovered in any of his Majesty's Courts of Record at Dublin by any person, by action of debt, bill, plaint or information, provided such action be commenced within Twelve calendar months next after such offence committed, in which action there should not be any essoign or wager of law, nor more than one 25 imparlance allowed; and that all sums to be recovered should be applied, one moiety thereof to the use of the person who should sue for the same, and the other moiety to the use of his Majesty, his heirs and successors: And whereas by the hereinbefore recited Act passed in the first year of the reign of his late Majesty, reciting the hereinbefore last-recited Act, it was enacted, that from and after the passing of the said Act of the first year of his late Majesty's reign, it should and might be lawful to and for such societies or co-partnerships from time to time, and at any times between the Twenty-fifth day of March in any year and the Twenty-fifth day of March in the succeeding year, 35 to make out upon oath, and cause to be delivered to the Commissioners of Stamps, in manner mentioned in the said last-recited Act of the sixth year of the reign of King George the Fourth, a further account or return, or further accounts or returns, according to the form contained in the Schedule to the now reciting Act annexed, of 40 the name or names of any person or persons who should have been nominated or appointed a new or additional public officer or public officers of such society or co-partnership, or of the name of any new or additional town or towns, or place or places, where such Bills or Notes were or were intended to be issued, and where the same were to be made payable, or of both or either of the above matters, together

Sections 6, 7, 8 and 9 of 1 Will. 4, c. 32, recited.

or separately; and that such further accounts or returns should from time to time be filed, and kept and entered and registered at the Stamp Office in Dublin, in like manner as is by the said Act of the sixth year of the reign of King George the Fourth required with respect to the original or annual account or return thereby directed to be made, and that thereupon an additional certificate or additional certificates of such account and return or accounts and returns should be granted by the persons, and in the same manner, and upon the same stamps, and containing the same particulars as in the said recited Act of the sixth year of the reign of his present Majesty particularly mentioned; and which additional certificate or certificates should have effect and continue in force from the day of the date thereof until the Twenty-fifth day of March following, and no longer, and should be sufficient evidence of the appointment and authority of the public officers respectively; and it was by the now reciting Act further enacted, that a copy of any such account or return so filed or kept and registered at the Stamp Office as by the said recited Act of the sixth year of the reign of his present Majesty, and by the now reciting Act directed, and which copy should be certified to be a true copy 20 under the hand or hands of one or more of the Commissioners of Stamps, or other officer or officers of the Stamp Office in London or Dublin for the time being, upon proof made that such certificate had been signed with the handwriting of the person or persons making the same, and whom it should not be necessary to prove to be a Commis-25 sioner or Commissioners, officer or officers, should in all proceedings. civil or criminal, and in all cases whatsoever, be received in evidence as proof of the appointment and authority of the public officers named in such account or return, and also of the fact that all persons named therein as members of such society or co-partner-30 ship were members thereof at the date of such account or return: and it was by the said reciting Act further enacted, that the said Commissioners of Stamps or other officers of the Stamp Office for the time being should and they were thereby required, upon application made to them by any person or persons requiring a copy, certified according to the now reciting Act, of any such account or return as aforesaid, in order that the same might be produced in evidence, or for any other purpose, to deliver to the person or persons so applying for the same such certified copy, he, she or they paying for the same the sum of Ten Shillings, and no more; and it was by the now reciting Act further enacted and declared to be the true intent and meaning of the said recited Act of the sixth year of the reign of King GEORGE the Fourth, that such societies and co-partnerships were not and should not be liable or obliged to make any return or account to the Stamp Office in Dublin of any sale or transfer of their shares which should take place between the Twenty-fifth day of March in any year and the Twenty-fifth day of March in the succeeding year; but that the said societics 557.

The recited sections of 6 Geo. 4, c. 42, and of 1 Will. 4, c. 32, extended to Banking Partnerships within Fifty Miles of Dublin.

societies or co-partnerships should only be liable and obliged to make an account or return to the Stamp Office in Dublin once in every year in the manner and containing the particulars in the said Act mentioned; BE it Enacted, That the said hereinbefore recited provisions of the said Acts passed respectively in the sixth year of the reign of his Majesty King George the Fourth, and in the first year of the reign of his late Majesty King WILLIAM the Fourth, shall from and after the passing of this Act, apply and extend to any and every society or co-partnership for banking in Ireland, consisting of more than Six persons, and having their establishments or houses of business at 10 Dublin or less than Fifty Miles distant from Dublin, as fully and effectually as to societies or partnerships consisting of more than Six in number, and not having the establishments or houses of business of such society or co-partnership at any place or places less than Fifty Miles distant from Dublin, and to the members thereof for the 15 time being, during the continuance of such society or co-partnership, whether the same do or shall consist of all, or some only of the persons who originally were, or at the time of the passing of this Act may have subscribed to, or may be members of any such society or co-partnership, or of all or some only of those persons, together with some or other persons, or entirely of some other persons, all of whom became or may become members of such society or co-partnership at any time after the original institution thereof, or subsequent to the passing of this Act.

16. 3 & 4 Will. 4, c. 98, s. 6.

AND whereas by an Act passed in the third and fourth years of 25 the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act for giving to the Corporation of the Governor and Company of the Bank of England certain Privileges for a limited Period, under certain Conditions," it was enacted, that from and after the First day of August One thousand eight hundred and Thirty-four, unless 30 and until Parliament should otherwise direct, a tender of a Note or Notes of the Governor and Company of the Bank of England, expressed to be payable to bearer on demand, should be a legal tender to the amount expressed in such Note or Notes, and should be taken to be valid as a tender to such amount for all sums above Five Pounds 35 on all occasions on which any tender of money may be legally made, so long as the Bank of England should continue to pay on demand their said Notes in legal coin: Provided always, that no such Note or Notes should be deemed a legal tender of payment by the Governor and Company of the Bank of England, or any Branch Bank of the said 40 Governor and Company: AND whereas doubts have arisen as to the extent of the said Enactment; for removal whereof, BE it Enacted and Declared, That nothing in the said last-recited Act contained shall extend or be construed to extend to make the tender of a Note or Notes of the Governor and Company of the Bank of England a legal tender in Ireland.

Bank of England Notes not to be a Legal Tender in Ireland.

And

And be it Enacted, That from and after the passing of this Act it shall not be necessary for any Governor, Deputy-governor or Director of the said Bank, before acting in the said several offices or trusts, to make and subscribe the declaration pursuant to the Act of Parliament made in the Kingdom of Ireland, intituled, "An Act to prevent the further Growth of Popery," nor to take any other oaths than the oaths of allegiance, the oath of qualification by possession of stock and the oath of fidelity to the corporation prescribed in and by the Charter of Incorporation of the Governor and Company of the said 10 Bank; and that it shall not be necessary for any member of the said corporation before voting in any General Court, to make and subscribe the aforesaid declaration, nor to take any other oaths than the oath of allegiance, the oath of qualification by the possession of stock, and the oath of fidelity to the said corporation provided in the said Charter 15 of Incorporation: Provided always, That in case any of the persons called Quakers shall at any time be chosen Governor, Deputy Governor or Director, or shall be or become a member of the said corporation, it shall be sufficient for such person or persons to make his or their solemn affirmation to the purport and effect of the oaths pre-20 scribed by the said Charter, and by this Act to be taken by Governors,

Deputy Governors, Directors or members respectively of the said

corporation.

Certain Oaths only shall be taken by the Governor, Directors and Proprietors of Bank of Ireland.

And be it Enacted, That upon One Year's notice, given within Six Months after the expiration of Ten Years from the First day of August 25 One thousand eight hundred and Thirty-four, and upon repayment by Parliament to the Governor and Company of the Bank of Ireland, or their successors, of the said sum of Six hundred thousand Pounds, as also of the said hereinbefore first-mentioned sum of Five hundred thousand Pounds, as also of the said sum of One million two hundred 30 and fifty thousand Pounds, as also of the said hereinbefore secondlymentioned sum of Five hundred thousand Pounds, all late Irish currency, as also of all arrears of the said several annuities of Thirty-five thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence, and Fixty-six thousand five hundred and thirty-eight 35 Pounds Nine Shillings and Two-pence, as also of all other principal monies and interest due from the public to the Governor and Company of the said Bank at the expiration of such notice, in like manner as is hereinafter stipulated and provided, in the event of such notice being deferred until after the First day of August One thousand eight hundred and Fifty-five, the said several annuities, and the said exclusive privileges of banking granted by the recited Acts and this Act, shall cease and determine at the expiration of such year's notice; and the said Corporation shall be dissolved; and any vote or resolution of The House of Commons, signified by the Speaker of the said House in writing, and delivered at the public office of the Go-557.

18. Exclusive privileges hereby given to end upon One Year's Notice given within Six Months after the expiration of Ten Years from 1834.

vernor and Company of the said Bank, or their successors, shall be deemed and adjudged to be a sufficient notice.

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19. Or upon like notice at any time after the 1st of August 1855.

And be it Enacted, That all the powers, authorities, franchises, privileges and advantages given or recognized by the said recited Acts, or any other Act or Acts now in force, as belonging to or enjoyed by the Governor and Company of the Bank of Ireland, and all obligations, duties and liabilities thereby imposed upon the Governor and Company of the said Bank, shall be and the same are hereby declared to be in full force and continued by this Act, except so far as the same are altered by this Act, subject nevertheless to such redemption upon the terms and conditions following; (that is to say) that at any time upon Twelve Months' notice to be given after the First day of August One thousand eight hundred and Fifty-five, and upon repayment by Parliament to the Governor and Company of the said Bank of Ireland, or their successors, of the said sum of Six hundred thousand Pounds, as also of the hereinbefore first-mentioned sum of Five hundred thousand Pounds, as also of the said sum of One million two hundred and fifty thousand Pounds, as also of the hereinbefore secondly mentioned sum of Five hundred thousand Pounds, all late Irish currency, as also of all arrears of the said several annuities of Thirty-five thousand five hundred and thirty-eight Pounds Nine Shillings and Twopence, and Fifty-six thousand five hundred and thirty-eight Pounds Nine Shillings and Two-pence, as also of all other principal monies and interest due from the public to the Governor and Company of the said Bank at the time of such notice to be given as last aforesaid; then and in such case, and not till then (unless under the proviso hereinbefore contained), the said exclusive privileges of banking granted by the said recited Acts and this Act shall cease and determine, and the said Corporation shall be dissolved at the expiration of such notice of Twelve Months.

20. Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

Bank of Ireland.

(Ireland.)

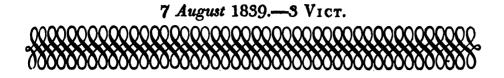
[AS AMENDED BY THE COMMITTEE]

To continue to the Governor and Company of the Bank of Ireland certain of the Privileges now enjoyed by that Corporation, subject to certain Conditions.

(Prepared and brought in by Mr. Chancellor of the Exchequer, Mr. Baring, and Mr. Poulett Thomson.)

Ordered, by The House of Commons, to be Printed,
23 August 1839.

557.



Tocontinue an Act of the First and Second Years of the Reign of Her present Majesty, relating to Legal Proceedings by certain Joint Stock Banking Companies against their own Members, and by such Members against the Companies.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

DEREAS an Act was passed in the first and second Preamble: year of the reign of Her present Majesty, for amending c. 96. the law relating to Legal Proceedings by certain Joint Stock Banking Companies against their own Members, and by such Members against the Companies: And whereas the said Act will expire at the end of the present Session of Parliament, and it is expedient that the same shall be further continued; Now Be it enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, 10 in this present Parliament assembled, and by the Authority of the same, THAT the said hereinbefore recited Act shall be further continued to the Thirty-first day of August One thousand eight hundred and Forty.

Joint Stock Banking Companies.

BILI

To continue an Act of the First and Second Years of the Reign of Her present Majesty, relating to Legal Proceedings by certain Joint Stock Banking Companies against their own Members, and by such Members against the Companies.

(Prepared and brought in by Mr. Chancellor of the Exchequer and . Mr. Baring.)

Ordered, by The Hause of Commons, to be Printed, 7 August 1839.

507.

28 June 1839.—3 VICT.



A

B I L L,

INTITULED,

AN ACT for the better Protection of Parties dealing with Persons liable to the Bankrupt Laws.

1 DEREAS by an Act passed in the sixth year of the Preamble. reign of his late Majesty King GEORGE the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts," 6 G. 4, c. 16. it was among other things enacted, that all payments really and bona fide made by any Bankrupt or by any person on his behalf, before the date and issuing of the Commission against such Bankrupt, to any Creditor of such Bankrupt (such payment not being a fraudulent preference of such Creditor) should be deemed valid, notwithstanding any prior act of Bankruptcy by such Bankrupt committed, and that all payments really and bona fide made to any Bankrupt before the date and issuing of the Commission against such Bankrupt should be deemed valid, notwithstanding any prior act of Bankruptcy committed, and that such Creditor should not be liable to refund the same to the Assignees of such Bankrupt, provided the 15 person so dealing with the Bankrupt had not at the time of such payment to such Bankrupt notice of any act of Bankruptcy committed: And whereas by an Act passed in this present Session of Parliament, intituled, "An Act for the better Protection of Purchasers 2 Vict. c. 11 against Judgments, Crown Debts, Lis pendens, and Fiats in Bankruptcy," 20 it is amongst other things enacted, that all conveyances by any Bankrupt bona fide made and executed before the date and issuing of the fiat against such Bankrupt shall be valid, notwithstanding any prior act of Bankruptcy by him committed, provided the 361. person

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person or persons to whom such Bankrupt so conveyed had

not at the time of such conveyance notice of any prior act of Bankruptcy by him committed: And whereas it is expedient that further protection should be given to persons dealing with Bankrupts before the issuing of any fiat against them; BC it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all contracts, dealings and transactions by and with any Bankrupt really and bona fide made and 10 entered into before the date and issuing of the fiat against him, and all executions and attachments against the lands and tenements or goods and chattels of such Bankrupt, bona fide executed or levied before the date and issuing of the fiat, shall be deemed to be valid, notwithstanding any prior act of Bankruptcy by such Bankrupt committed; provided the person or persons so dealing with such Bankrupt, or at whose suit or on whose account such execution or attachment shall have issued, had not at the time of such contract, dealing or transaction, or at the time of executing or levying such execution or attachment, notice of any prior act of Bankruptcy by him committed: Provided also, That nothing herein contained shall be deemed or taken to give validity to any payment made by any Bankrupt being a fraudulent preference of any creditor or creditors of such Bankrupt, or to any execution founded on a judgment on a warrant of attorney or cognovit given by any Bankrupt by way of 25

All Contracts, &c. bona fide made by and with any Bankrupt previous to date and issuing of Fiats to be valid, &c.

Act may be repealed or repealed.

And be it further Enacted, That this Act may be repealed or altered by any other Act in this present Session of Parliament.

such fraudulent preference.

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Bankrupt Liability.

3 I L L

INTITULED,

AN ACT for the better Protection of Parties dealing with Persons liable to the Bankrupt Laws.

Ordered, by The House of Commons, to be Printed, 28 June 1839.

361.



For Regulating the Sequestration of the Estates of Bankrupts in Scotland.

Note.—The Words and Figures printed in Italics in the Bill are proposed to be inserted in the Committee.]

1 DEREAS it is expedient to amend the laws for regu- Preamble. lating the Sequestration of Estates of Bankrupts in Scotland; Be it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled. and by the Authority of the same, THAT all Sequestrations depending at the commencement of this Act shall be proceeded in and brought to a conclusion under the provisions of an Act passed in the fifty-fourth year of the reign of his Majesty King George 10 the Third, intituled, "An Act for rendering the Payment of Creditors more equal and expeditious in Scotland," and not under this Act.

Depending proceeded in under 54 Geo. 3, c. 137.

And be it Enacted, That this Act shall commence and take effect on and after the Fourteenth day of July One thousand eight hundred and Thirty-nine, and on and after that day all Sequestrations 15 shall be awarded in virtue of and in terms of this Act, and of no other Act, and such Sequestrations shall be proceeded in and brought to a conclusion under the provisions of this Act.

2. Commence ment of this

And be it Enacted, That in construing this Act the word "Lord Ordinary" shall mean the Lord Ordinary officiating on the Bills in 20 the Court of Session; that the word "Commissioners" shall mean a majority of the Commissioners hereinafter mentioned; that the word "Estates" shall comprehend every kind of property, heritable or moveable, real or personal, and all lands, tenements and heredita-

ments wherever situated, and all debts, claims and incorporeal rights belonging or due, or falling by succession or otherwise to the Bankrupt, and any part thereof; that the word "Deliverance" shall include any Order, Warrant, Judgment, Interlocutor, or Decree; that the word "Security" shall include all Securities, heritable or moveable, real or personal, and all Liens and Preferences, and all Conveyances thereof; that the word "Successors" shall mean and include heirs, heirs apparent, representatives by deed or otherwise, executors and nearest of kin, and also assignees and singular successors, where they have acquired the right; that the word "Month" 10 shall mean a Calendar Month; that the word "Oath" shall include Affirmation, where by law such Affirmation shall be required to be taken in place of an Oath; that the word "Vote" shall, as well as the ordinary meaning thereof, include a consent to any offer of composition and to a discharge of the Debtor, and also a dissent 15 from such offer or discharge, and generally any act as a Creditor; that the words "Debtor," "Bankrupt" and "Creditor" shall include Bodies Corporate, Politic or Collegiate, Companies or Partnerships, as well as Individuals, and shall, as well as all other words importing the singular number and masculine gender, 20 include several persons as well as one person, and females as well as males, and several matters of the same kind as well as one matter, (unless in this and also in the other cases herein above specified, a different construction shall be provided, or the construction be repugnant to the subject-matter or context); and this Act shall be 25 construed in the most beneficial manner for promoting the ends hereby intended, and shall include married women carrying on trade independent of their husbands, and widows and aliens.

Act to be construed beneficially for the ends thereof.

4. Sequestration of Estateso f Debtors with their consent.

And be it Enacted, That the estates of any Debtor or Company subject to the laws of Scotland, and holding estates heritable or 30 moveable within Scotland, may be sequestrated, provided that the Debtor or Company shall petition for Sequestration, with the concurrence of one or more Creditors, qualified as hereinafter mentioned; and if the petition is not signed by the Debtor or Company, a mandate by him, and in the case of a Company, a mandate signed by 35 the Company or those entitled to act for it, authorizing such petition, shall be therewith produced.

5. Sequestration of Estates of a Deceased Debtor.

And be it Enacted, That Sequestration may be applied for of the estates of any Deceased Debtor, who at the time of his death resided, or had a dwelling-house, or carried on business in Scotland, and was, 40 at that time, owner of heritable or moveable estates in Scotland, provided such Sequestration shall be applied for by one or more Creditors qualified as hereinafter mentioned: but no such Sequestration

tration shall be awarded until the expiration of Six Months from the Debtor's death, unless he shall have granted a mandate to apply for Sequestration, or was at the time of his death Notour Bankrupt, or had remained in sanctuary as hereinafter provided, or unless his successors shall concur in the petition or renounce the succession, in which several cases Sequestration shall forthwith be awarded.

And be it Enacted, That the estates of any Debtor subject to the laws of Scotland, who is, or has been, a merchant, trader, manufacturer, banker, broker, warehouseman, wharfinger, underwriter, without consent. artificer, packer, builder, carpenter, shipwright, innkeeper, hotelkeeper, stable-keeper, coach contractor, cattle-dealer, grain-dealer, coal-dealer, fish-dealer, lime-burner, dyer, printer, bleacher, fuller, calenderer, and generally the estates of any Debtor subject as aforesaid, who seeks, or has sought his living, or a material part thereof, for himself, or as agent or factor for others, by using the trade of merchandise, by way of bargain, exchange, barter, commission or consignment, or by buying and selling, or by buying and letting for hire, or by the workmanship or manufacture of goods or commodities, or by any of the said occupations alone or in partnership with another, may be sequestrated without the consent of such Debtor, provided that he be Notour Bankrupt, and have carried on business in Scotland in any of the said occupations, and have also, within a year before the date of presenting the Petition for Sequestration, resided, or had a dwelling-house, or place of business in 25 Scotland, and that a Petition be presented by one or more Creditors, as hereinafter directed: Provided always, That it shall not be competent to sequestrate the estates of any Debtor without his consent, as a holder of stock in any of the public or national funds, or of India Stock, or as a Partner in any Company in-30 corporated or established by Act of Parliament, or by Charter, or as a landholder or farmer, unless, in these last cases, he be bonâ fide a dealer in cattle not the produce of, nor grazed, nor worked on his farm, or unless he be a dealer in grain not the produce thereof.

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6. Sequestration of Estates of Debtors

Exceptions from Sequestration without consent.

And be it Enacted, That the estates of any Company subject 35 to the laws of Scotland, and falling within any of the said descriptions, and not within any of the said exceptions, may be sequestrated without consent, provided any partner thereof has been rendered Notour Bankrupt for a Company Debt, and the Company 40 have carried on business in Scotland in any of the said occupations, and a partner have, within a year before the date of presenting the Petition for Sequestration, resided, or had a dwelling-house, or the Company have had a place of business in Scotland, and a Petition 23.

Sequestration of Estates of Companies without consent.

for Sequestration be presented by one or more Creditors of the Company, as hereinafter directed.

8. Sequestration of the Estates of Debtors retiring to the Sanctuary.

And be it Enacted, That if any Debtor, subject to the laws of Scotland, and holding heritable or moveable estates there, shall retire to the Sanctuary, and remain therein for Sixty Days (either continuously or not), within the space of Twelve Months, as hereinafter provided, the estates of such Debtor, although he be neither Notour Bankrupt nor within any of the said descriptions, may be sequestrated without the consent of such Debtor, provided a petition be presented by One or more creditors as hereinafter directed.

G. Creditors entitled to petition for Sequestration.

And be it Enacted, That any One Creditor whose debt amounts to not less than Fifty Pounds, or any Two Creditors whose debts together amount to not less than Seventy Pounds, or any Three or more Creditors whose debts together amount to One hundred Pounds or upwards, whether such debts are liquid or illiquid (provided they be not 15 contingent), may concur in a Petition by a Debtor for Sequestration, or may petition for Sequestration of the estates of any Debtor or Company liable to be sequestrated without consent; provided that in the latter case the Petition be presented within Four Months after the date of the Notour Bankruptcy, or in case of retiring to the Sanctuary within Four Months after the expiration of the said Sixty Days.

10. Creditors to make Oaths to verity of Debt.

And be it Enacted, That to entitle a Creditor residing within the Kingdom of Great Britain and Ireland to petition, or concur in a Petition for Sequestration, or to vote, or to draw a dividend, he shall produce, either with the Petition for Sequestration, or at a meeting of the Creditors, or in the hands of the trustee, an Oath, taken before a Judge Ordinary, Magistrate, or Justice of the Peace, to the verity of the debt claimed by him; and he shall in such oath state what other persons (if any) are besides the Bankrupt, liable 30 for the debt or any part thereof, and specify any security which he holds over the estate of the bankrupt or of other obligants; and depone that he holds no other obligants or securities than those specified; and where he holds no other person than the bankrupt so bound, and no security, he shall depone to that effect; and if he hold a collateral obligation or security, he shall, before voting, and before being ranked in order to draw a dividend, be bound to qualify his claim as hereinafter provided: Provided always, That in cases where the Creditor is a body Corporate, an Oath of verity made as aforesaid by the Manager, Cashier, Secretary, Clerk or other principal Officer of such Body Corporate, shall be sufficient, although the person making the same be not a Partner in such Corporation.

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Creditors ou of Great Britain and Ireland:

And be it Enacted, That to entitle a Creditor who is out of the Kingdom of Great Britain and Ireland to petition, or concur in a petition, or to vote, or to draw a dividend, he shall either make an oath to his debt, in the manner above provided, before a magistrate or Justice of the Peace of the country where he resides (he being certified to be a magistrate or Justice of the Peace by a notary public, British Minister or British Consul), or his known agent or mandatory in Great Britain or Ireland, shall make an oath of credulity to the same effect; and where any creditor shall be under age, or incapable to make oath, an oath of credulity as aforesaid, by his authorized agent, factor, guardian or manager, shall be sufficient.

or incapable

12. Production of Vouchers.

Provided always, and be it Enacted, That the Creditor shall produce with his said oath, such Accounts and Vouchers as shall be 15 necessary to prove his debt; but if not in possession thereof previously to the period hereinafter assigned for lodging claims with a view to a share in any dividend, he shall state in his oath the cause why the said accounts and vouchers are not produced, and in whose hands, to the best of his knowledge, the same are, which oath shall entitle him to have a dividend set apart till a reasonable time be afforded for production thereof, or for otherwise establishing his debt according to law; but he shall not be entitled to act or vote till such production be made or the debt established as aforesaid; and the Interim Factor or Trustee shall, on production of the oaths and grounds of debt, mark the same with his initials, and make an entry thereof in the Sederunt Book, and of the date when the same were produced, and, if required, he shall return to the Creditor the grounds of debt.

> 13. Mode of applying for Sequestration.

And be it Enacted, That application for Sequestration shall be 30 made by Petition to the Lord Ordinary, signed by the petitioner or his counsel or agent, who shall be entitled to mark thereon the division of the Court to which the Sequestration shall be appropriated, and the petitioning or concurring Creditor shall in all cases produce with such petition an Oath to the effect above specified, and also the accounts and vouchers of debt, as hereinbefore provided; and where the Petition is presented for Sequestration of the estates of a deceased debtor, the petitioning creditor shall in his oath, or in a separate oath, specify the place where the debtor resided or had a dwelling-house, or carried on business in Scotland at the time of his death, and whether he was then owner of heritable or moveable estates in Scotland; and where the Petition is presented during the life of the debtor, or for Sequestration of the estates of a Company, without the consent of the Debtor or Company, the petitioning Creditor shall in such oath swear that he believes the Debtor 23.

Debtor or Company, as the case may be, to be within one or other of the said descriptions, and specify which description, or that he believes the debtor to have retired and remained within the Sanctuary as hereinbefore provided.

14.
On Petition by the Debtor, Sequestration to be awarded.

Order to elect Interim Factor, Trustee

tor, Trustee and Commissioners.

Remit to Sheriff. Protection of Debtor.

15. Sequestration of the Estates of deceased Debtor.

And be it Enacted, That where a Petition is presented for Sequestration by the Debtor or by a Company, with concurrence as aforesaid, the Lord Ordinary shall forthwith issue a deliverance by which he shall award Sequestration of the estates which then belong, or shall thereafter belong, to the Debtor or Company before the date of the discharge, and declare the estates to belong to the Creditors for 10 the purposes of this Act, and he shall appoint a general meeting of the Creditors to be held at a specified hour on a specified day, being not earlier than Eight and not later than Fourteen Days from the date of the deliverance, at a convenient place within the county where the Debtor carries on or last carried on his business (failing which, 15 at a convenient place within the county wherein he resides or last resided), to elect an Interim Factor; and he shall also appoint the Creditors to meet at a specified hour on another specified day, being not less than Four Weeks and not more than Six Weeks from the date of the deliverance, at the place fixed for the election 20 of Interim Factor, to elect a Trustee or Trustees in succession, and Commissioners, and do the other acts hereinafter provided: and remit to the Sheriff of the county where the meeting is to be held to proceed in manner hereinafter mentioned; and the Lord Ordinary shall, by the same deliverance, grant to the Debtor or 25 Partners of the Company (as the case may be) a Protection against arrest or imprisonment for civil debt until the meeting of the Creditors for the election of Trustee as hereinafter provided.

And be it Enacted, That where a Petition is presented for Sequestration of the estates of a Debtor who is dead, the Lord Ordinary shall 30 grant warrant to cite the debtor's successor, personally or at his dwelling-place, if known and within Scotland, or if not known, or if furth of Scotland, at the Office of Edictal Citations, and in either of these last cases also at the house where the Debtor had at the time of his death his residence, or at his place of business in Scotland, on 35 induciæ of Twenty-one Days from the date of citation, to show cause why Sequestration should not be awarded, and they shall be cited accordingly; and if, on the expiration of the said Twentyone Days, and production of an execution of citation, they fail to appear, the Lord Ordinary shall order intimation of such warrant 40 to be published in the Edinburgh Gazette, requiring the said successor to show cause as aforesaid within a further space of Twenty-one Days from the date of the publication of the said intimation; and if they do not then appear, or if appearing, no cause to the contrary

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be shown by them or any party interested, the Lord Ordinary shall award Sequestration, and issue the other orders, as hereinabove provided in the case of any other Debtor, in so far as circumstances will permit; and he shall ordain any successor who has made up a title to, or is in possession of the estate of the Debtor, to transfer such estate, so far as liable for the debts of the deceased, to the Trustee to be appointed as hereinafter directed; and if desired, the Lord Ordinary shall grant diligence to recover evidence to show that the Debtor resided, or had a dwelling-house, or carried on business in Scotland at 10 the time of his death, and was then the owner of heritable or moveable estates in Scotland: and if Sequestration shall be awarded, such Sequestration shall proceed in the same way as in other cases, with the differences necessarily arising from the death of the Debtor: and the petitioning Creditor may at any time after the execution of the citation, and before Sequestration is awarded, apply by written note to the Lord Ordinary to appoint a Judicial Factor to administer the estate in the mean time, and if no cause be shown to the contrary, the Lord Ordinary may appoint a Factor accordingly; and it shall not be competent for any Creditor, after the date of the 20 first deliverance on the Petition for Sequestration, to be confirmed Executor Creditor, or to raise or insist in any adjudication or diligence against the estate of the Debtor.

Judicial Factor.

And be it Enacted, That where the Petition for Sequestration is presented without the consent of the Debtor, the Lord Ordinary shall 25 grant warrant to cite him to appear within a specified period, if he be within Scotland, of not less than Siv Days nor more than Twentyone Days from the date of citation, by delivering to him personally, or by leaving at his dwelling-house or place of business, a copy of the petition and warrant, and if the Debtor be furth of Scotland, to 30 cite him to appear within a specified period, being not less than Thirty Days nor more than Forty Days from the said date, by leaving a copy at the dwelling-house or place of business last occupied by him, and also at the Office of Edictal Citations, to show cause why Sequestration should not be awarded; and the Lord Ordinary 35 shall, if desired, grant diligence to recover evidence of the Notour Bankruptcy, and of the Debtor being within the requisite description, or of his having retired to and remained within the Sanctuary as aforesaid; and if, upon the expiration of the time specified in the warrant, the Debtor do not appear at the diet of appearance either 40 in person, or by his counsel or agent, or so appearing do not instantly pay or produce written evidence of the debt or debts being satisfied in respect whereof he was made Notour Bankrupt, or in respect of which he had retired to and remained within the Sanctuary, and also Pay or satisfy or produce written evidence of the payment or satisfaction of the debt or debts due to the Petitioner or Petitioners or to any other Creditor or Creditors who may have appeared and 23. concurred **A** 4

10.
If Sequestration applied for without the Debtor's consent,
Warrant to cite, &c. to be granted.

concurred in the petition, or do not show cause why Sequestration should not be awarded, the Lord Ordinary, on production of evidence of the citation and of the Notour Bankruptcy, and of the Debtor being within the requisite description, or of having retired to and remained within the Sanctuary as aforesaid, shall award Sequestration, appoint a meeting to be held for the election of an Interim Factor, Trustee and Commissioners, remit to the Sheriff, and grant a personal protection, all to the effect and in the manner above specified.

17. Sequestration of the Estates of a Company, without the consent thereof.

And be it Enacted, That where a Petition is presented for the Sequestration of the estates of any Company, the Lord Ordinary shall issue warrant and other orders to the same effect, and dispose of the petition in the same way as in the case of individual Debtors, and it shall be a sufficient citation that a copy of the petition and warrant be left at the place where the business of the Company is or was last carried on, provided a partner, or a clerk, or a servant of the Company be there, and failing thereof, at the dwelling-house of any of the acting partners, and if the house of such partner cannot be found, by leaving the copy at the Office of Edictal Citations; and Sequestration may be awarded either on the application of the Company itself, or on the application of a Creditor without the consent thereof of the estates of the Company and Partners jointly, or of their respective estates separately.

18. Liberation of Debtor.

And be it Enacted, That the Lord Ordinary may, on application made, either in the petition for Sequestration, or by a separate petition by the Debtor, grant warrant for liberating the Debtor, if in prison, after such intimation to the incarcerating Creditor or his known agent, as the Lord Ordinary shall deem to be just, and after hearing any objection to the granting of such Warrant; and if the application be refused, it shall be competent for the Debtor to make a new application for liberation, with consent of the Trustee and the Commissioners; and on intimation and hearing objections as aforesaid, the Lord Ordinary may grant Warrant to liberate.

19. Effect of Warrant to protect or liberate.

And be it Enacted, That the deliverance or Warrant granting protection or liberation, or a copy thereof certified by one of the Bill Chamber Clerks, shall protect or liberate the Debtor or a partner of a Company from arrest or imprisonment in Great Britain and Ireland, and Her Majesty's other dominions, for civil debt contracted previous to the date of Sequestration; but such Warrant of protection or liberation shall not be of any effect against the execution of

Warrant of arrest or imprisonment in meditatione fugæ, or ad factum præstandum, or for any criminal act.

And

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And be it Enacted, That the Clerks of the Bill Chamber in the Court of Session shall be Clerks to Sequestrations under this Act; and they shall keep a book, intituled, "The Register of Sequestrations," in the form of Schedule (A.) hereunto annexed, which book shall be patent to all concerned; and they shall forthwith therein enter the division of the Court to which the Sequestration is appropriated, the date of the first deliverance on every petition for Sequestration, the name and designation of the Debtor, and of the petitioning or concurring Creditor; the place and county of the Debtor's residence, dwelling-house, or place of business; the date of awarding Sequestration; the place and time appointed for the election of the Interim Factor and Trustee; the name and designation of the Interim Factor and of the Trustee and Commissioners; and the time fixed for lodging claims in order to obtain payment of the first dividend.

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20.
Bill Chamber Clerks to be Clerks of Sequestrations; and Duties.
Register of Sequestrations.

And be it Enacted, That the party applying for Sequestration shall, before the expiration of the Second lawfu day after the first deliverance, present an Abbreviate of the petition and deliverance, signed by him or his agent, in the form of Schedule (B.) hereunto annexed, to the Keeper of the Register of Hornings and Inhibitions at Edinburgh, who shall forthwith therein record the said Abbreviate; and the Abbreviate so recorded shall from the date of the said deliverance have the effect of an Inhibition, and of a citation in an adjudication of the estate of the Debtor, at the instance of the 25 Creditors afterwards ranked on the estate; and it shall not be competent to stop such effect, or the effect of the Sequestration after it is awarded by paying the debt or debts in respect of which it was awarded; and if the said Abbreviate be not so recorded, it shall have no effect as an Inhibition or citation as aforesaid; and the party 30 applying for Sequestration shall, within Four Days from the date of the deliverance awarding Sequestration, insert a Notice, in the form of Schedule (C.) hereunto annexed, in the Edinburgh Gazette, and also one Notice within Eight Days in the London Gazette; but it shall not be necessary to insert any other Notice, under this Act, 35 in the London Gazette.

21.

Abbreviate to be recorded in

Inhibitions.

Notice of Sequestration to be published in Gazette.

And be it Enacted, That the Deliverance awarding Sequestration shall not be subject to review; but any Debtor whose estate has been sequestrated without his consent, or the successor of any deceased Debtor whose estate has been sequestrated as aforesaid, or any Creditor (whether the Sequestration has been awarded with or without the consent of the Debtor or his successor) may within Forty Days after the date of the said Deliverance, present a petition to the Lord Ordinary, setting forth the grounds for recall, and praying for 23.

22.
Deliverance awarding Se questration not liable to review, but may be recalled.

recall; and where Sequestration has been awarded of the estate of a deceased Debtor, when his successor was edictally cited, it shall be competent to such successor, or any person having interest, to apply by petition as aforesaid, at any time before the publication of the advertisement, for payment of the first dividend hereinafter mentioned: And the Lord Ordinary shall in these several cases order a copy of the petition and of his deliverance to be served on the petitioning Creditor, or (as the case may be) on the petitioning Debtor and the concurring Creditor, or on their respective known agents, and on the Interim Factor or Trustee, if appointed; and he 10 shall require them to answer within a certain short time, and order a Notice of the presenting of the petition to be published in the Edinburgh Gazette; and on the expiration of the said period he shall proceed to pronounce judgment; and if he shall recall the Sequestration, the recall shall be entered by the Clerk in the Register of 15 Sequestrations, and by the said Keeper of Hornings and Inhibitions on the margin of the Record of Inhibitions; but in the meantime and until the Sequestration be finally recalled, the proceedings in the Sequestration shall go on as if no such petition had been presented.

Notice to be published.

23. No Recall competent after a certain time, unless Nine-tenths of Creditors apply.

And be it Enacted, That no petition for recall of the Sequestration shall be competent after the expiration of the said Forty Days, or after the said advertisement for payment of the first dividend respectively: Provided, That Nine-tenths in number and value of the Creditors ranked on the estate as herein directed may apply at 25 any time for recall by petition to the Lord Ordinary, who shall order notice of his deliverance to be published in the Edinburgh Gazette, requiring all concerned to appear within Fourteen Days from the date of publication in the Gazette, to show cause why the Sequestration should not be recalled; and on expiration of the said time 30 he shall proceed to pronounce judgment; but in the meantime and until the Sequestration be finally recalled, the proceedings in the Sequestration shall go on as if no such petition had been presented.

Creditors may be sisted in place of others.

Proceedings to go on although Debtor die.

And be it Enacted, That if a Creditor who has petitioned for 35 Sequestration, or concurred in such petition, or who has petitioned for recall of a Sequestration, or appeared to oppose a petition for Sequestration or recall, or lodged an objection, shall withdraw, or become bankrupt, or die, any other Creditor may be sisted in his place, and follow out the proceedings; and if the Debtor shall die 40 after the petition for Sequestration is presented, the proceedings shall notwithstanding be followed out in terms of this Act, so far as circumstances will permit.

And

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And be it Enacted, That in all questions under this Act the Sequestration shall be held to commence and take effect on and from the date of the first deliverance by the Lord Ordinary, which shall be held to be the date of the Sequestration, although the Sequestration be not actually awarded till a later date.

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And be it Enacted, That the awarding of Sequestration in virtue of this Act, shall render the Debtor or Company Notour Bankrupt, as at the date of the first deliverance, but without prejudice to any previous Notour Bankruptcy; and in all questions upon this present 10 Act, all Dispositions, heritable Bonds, or other heritable rights whereupon infeftment may follow, shall be reckoned to be of the date of the registration of the Sasine lawfully taken thereon, without prejudice to the validity or invalidity of the said heritable rights in all other respects as formerly; and all Dispositions, Assignations and Venditions, which do not require Sasine, but to which intimation or delivery is requisite in order to render them complete as transferences or as securities, shall in all questions under this Act, be reckoned to be of the date of the Intimation, delivery or other act requisite for completing the same without prejudice to their validity 20 in other respects.

26. Sequestration equivalent to Notour Bankruptcy.

And be it Enacted, That the presenting of, or concurring in a petition for Sequestration, or the lodging a claim in terms of this Act, in the hands of the Interim Factor, Sheriff Clerk acting as Factor, or Trustee, or the Sheriff officiating or Preses at any meet-25 ing of Creditors, shall interrupt prescription of the Creditor's debt so petitioning, concurring or claiming, and in regard to such debt. bar the effect of any Statute of Limitations in England or Ireland or Her Majesty's dominions; and although the Sequestration shall be recalled, such interruption or bar shall notwithstanding be effectual.

27. Petitioning claiming to interrupt Prescription. and bar Statute of Limitations.

And be it Enacted, That notwithstanding the said remit to the Sheriff, the process of Sequestration shall be held to be depending in the Court of Session, and shall not fall asleep; and on the said remit being made, a copy of the Petition for Sequestration, and of the first deliverance, and also (where it is different) of the deliverance awarding Sequestration, certified by one of the Clerks of the Bill Chamber, shall, with the productions, be transmitted by the petitioner to the Sheriff Clerk of the county, or ward or place where the meeting for election of Interim Factor is directed to be held; and the Sheriff shall have as full power and jurisdiction as 40 hitherto possessed by the Court of Session (subject to review) to try and determine all questions in the Sequestration, except in those cases where the power is specially conferred on the Court of Session or Lord Ordinary; and the Sheriff Clerk and Officers of 23. the

28. Sequestration to remain in Court of Session, but Certified Copy of Petition, &c. to be transmitted to the Sheriff

Jurisdiction of Sheriff.

Sheriff Clerk to keep Register. the Sheriff Court shall have power to act in their respective offices under this Act; and the Sheriff Clerk shall keep a register of Sequestrations transmitted to him in terms of the said Schedule (A.)

29. Extracts to be Evidence and warrants for Diligence.

And be it Enacted, That all deliverances of the Lord Ordinary and of the Court of Session, and of the Sheriff, as well as extracts and certified copies of all deliverances under this Act, shall be evidence in all courts and places within Great Britain and Ireland and Her Majesty's dominions, and shall be sufficient warrants for all Diligence and execution by law competent.

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30. Agent's claim for expenses restricted to estate and against employer.

And be it Enacted, That no person shall, by merely lodging an 10 oath, or being ranked, or receiving payment of a dividend, or appearing or voting at a meeting in a Sequestration as a Creditor, be personally liable for any claim by the agent or other person employed by the Interim Factor or Trustee, for money advanced or expense incurred or remuneration in relation to the affairs of the 15 estate, reserving to the agent or other person so employed, right to payment out of the estate, and from the Interim Factor or Trustee by whom he may have been so employed in so far as the same may be competent to him; and no Interim Factor or Trustee shall have relief in respect of such payment against such Creditor, 20 reserving to such Interim Factor or Trustee relief against the estate and against those Creditors or others who may on other grounds be liable in relief.

31. Mandatories for Creditors may vote.

And be it Enacted, That the mandatory of any person entitled to vote as a Creditor may vote in the absence of such Creditor, provided he exhibit a mandate; and the vote of such mandatory shall, within his mandate, be held as the vote of the Creditor himself.

32. Persons acquiring Debts after Sequestration not to vote.

And be it Enacted, That no person who shall acquire, after the date of the Sequestration, otherwise than by succession or marriage, a debt due by the Bankrupt, shall be entitled to vote in the election of Interim Factor or Trustee or Commissioners, but in all other respects such person may be reckoned as a Creditor.

33. Creditors may accumulate Arrears of Interest. Rules as to Interest on Debts and Discounts.

And be it Enacted, That if a Creditor claim for a debt with bygone interest, he may in his oath accumulate the interest as at the date of the Sequestration, and he shall specify the amount, but he shall not 35 be entitled to claim on the estate for interest either on the principal Debt or on such accumulated sum after the date of the Sequestration; and if a Creditor claim for a debt which is not payable till after the date of the Sequestration, he shall in his oath deduct the legal interest thereon from the date of the Sequestration to the term of payment, and specify the balance; and if he claim for a debt which,

which, by the usage of trade, is liable to a discount of more than legal interest, he shall in his oath state the amount of such discount, and deduct it from the debt, and specify the balance; provided that if such debt be not payable at the date of the Sequestration, he shall also deduct from such balance the legal interest as aforesaid, and specify the balance: and the Creditor in the said several cases shall be entitled to vote, and to draw dividends for the said accumulated sum or balance respectively and no more: Provided that, if there be any residue of the estate after discharging the debts ranked, he shall be entitled to claim out of such residue the full amount of the interest on his debt in terms of law.

And be it Enacted, That if a Creditor hold a security for his debt over the estate of the Bankrupt, he shall, before voting make an oath, in which he shall put a value on such security, and deduct such value from his debt, and specify the balance: and if the estate be sold, he shall specify in his oath the free proceeds which he has received or shall be entitled to receive therefrom, and specify the balance due after deduction thereof, and he shall be entitled in either case to vote in respect of such balance and no more; without prejudice to the amount of his debt in other respects; and in questions as to the disposal or management of the estate subject to his security, he shall be entitled to vote as a Creditor for the whole amount of his debt, without making any such deduction.

34. Rules as to voting, where a Creditor holds a security over the Bankrupt's estate.

And be it Enacted, That where a Creditor has an obligant bound with, but liable in relief to the Bankrupt, in whole or in part, or where a Creditor holds any security from an obligant, liable in relief as aforesaid, or any other security, against the subject of which the Bankrupt has a right of relief, he shall, before voting, make an oath, in which he shall put a value on the obligation of such obligant, and on such security, to the extent to which the Bankrupt is entitled to relief, and deduct such value from his debt, and specify the balance; and he shall be entitled to vote in respect of such balance and no more, without prejudice to the amount of his debt in other respects.

35. Rules as to voting, where a Creditor has obligants liable in relief to the Bankrupt.

And be it Enacted, That a Creditor on the estate of a Company shall not be bound for the purpose of voting on the Company's estate to deduct from his claim the value which he may be entitled to draw from the estates of the partners; but if he claim on the estate of a partner, he shall, before voting, in his oath, put a value on his claim against the estate of the Company, and also against the other partners thereof, in so far as they are liable to relieve such partner, and deduct such value from his debt, and specify the balance; and he shall be entitled to vote as a Creditor for the 23.

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36. Valuation of claims by Creditors of a Company on a partner's estate.

said balance, and no more, without prejudice to the amount of his debt in other respects, and being counted in number as hereinafter specified.

37. Right of Trustee to Assignation to Securities.

Provided always, and be it Enacted, That it shall be competent to the Trustee, with consent of the Commissioners, within Two Months after an oath specifying the value of a security or obligation in the several cases before-mentioned, has been made use of in voting at any meeting, or in assenting to or dissenting from the Bankrupt's composition or discharge, as also to the majority of the Creditors (other than the Creditor making such oath) assembled at any meeting during such meeting, to require from the Creditor making such oath a conveyance or assignation in favour of the Trustee to such security or obligation on payment of the specified value, with Twenty per centum in addition to such value; and the Creditor shall be bound to grant such conveyance or assignation 15 at the expense of the Trustee: Provided, that where a Creditor has put a value on such security or obligation, he may, any time before he has been required to convey and assign as aforesaid, correct such valuation by a new oath, and deduct such new value from his debt.

Provision for change on values of Securities.

38. Rules as to Valuation of Securities, with a view to a dividend.

And be it Enacted, That to entitle any Creditor who holds a security over the estate of the Bankrupt, to be ranked, in order to draw a dividend, he shall on oath put a value on such security, and deduct such value from his debt, and specify the balance; and the Trustee, with consent of the Commissioners, shall be entitled 25 to an assignation to such security, on payment of the value so specified out of the first of the Common Fund, or to reserve to such Creditor the full benefit of such security; and in either case the Creditor shall be ranked for and receive a dividend on the said balance, and no more, without prejudice to his debt in other respects. 30

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39. Valuation of Claims by Creditors of a Company with a view to a dividend on a Partner's Estate.

And be it Enacted. That where a Creditor claims on the estate of a partner of a Company, in respect of a debt due by such Company, the Trustee on the estate of such partner shall, before ranking such Creditor for payment of a dividend, put a valuation on the estate of the Company, and deduct from the claims of such Creditors such 35 estimated value, and rank and pay to them a dividend only on the balance; but the judgment of the Trustee shall be subject to review, as hereinafter provided.

40. Contingent Creditors.

And be it Enacted, That where the claim of a Creditor depends upon a contingency which is unascertained at the date of lodging 40 his claim, he shall not be entitled to vote, nor to draw a dividend in respect of such contingent debt; but he may apply to the Sheriff,

if the Trustee has not been elected, or if elected, to the Trustee, to put a value on such debt, and the Sheriff or Trustee (as the case may be) shall put a value thereon; and on such value being fixed, such Creditor may vote in respect of such value, and be counted in respect thereof, and also in number, if such value exceed Twenty Pounds, and draw dividends on such value: Provided that if such contingency has ceased or been purified before the debt has been valued, such Creditor may vote and draw dividends in respect of the amount of the debt, but the same shall not disturb any former dividends allotted to other Creditors; and where such application is made to the Sheriff, notice thereof shall be given to the Interim Factor (if he be elected) and if not elected, to the Bankrupt and petitioning or concurring Creditor; and the judgment of the Sheriff or Trustee shall be subject to review, and any Creditor who has claimed on the estate may 15 appear and be heard thereon.

Annuity Cre-

And be it Enacted, That any Creditor in respect of an annuity granted by the Bankrupt, shall not be entitled to vote or draw a dividend, until the same shall be valued; but he may, if the Trustee has not been elected, apply to the Sheriff, or if elected, to the Trustee, 20 to put a value on such annuity; and the Sheriff or Trustee (as the case may be) shall put a value on the annuity, regard being had to the original price given for the said annuity, deducting therefrom such diminution in the value of the annuity as shall have been caused by the lapse of time, since the grant thereof, to the date 25 of the Sequestration; and such Creditor shall be entitled to vote and draw dividends in respect of such value, and no more: Provided always, That where such application is made to the Sheriff, notice thereof shall be given to the interim Factor (if elected), and if not elected, to the Bankrupt and the petitioning or concurring Creditor; 30 and the judgment of the Sheriff or Trustee shall be subject to review; and any Creditor who has claimed on the estate may appear and be heard thereon.

Provided always, and be it Enacted, That it shall not be lawful Provision as to any person entitled to an annuity granted by the Bankrupt to sue to Cautioners for annuities. or charge, after the date of the Sequestration, any Cautioner for the payment of such annuity, until the value of the annuity has been fixed in manner hereinbefore provided, and such Cautioner shall only be liable for the value so fixed, and the arrears of annuity; and on such Cautioner making payment of such value to the Creditor, 40 with the arrears of the annuity (if any), and the lawful interest on such value and arrears, the Cautioner shall be discharged, and may thereupon enter a claim in the Sequestration for the sum so paid, and vote and draw dividends thereon: Provided always, That if such Cautioner shall not pay the sum so fixed and interest as В 4 aforesaid, 23.

aforesaid, before any payment of the annuity subsequent to the fixing thereof becomes due, he shall be bound to make payment of the said annuity, and all subsequent annuities, until he shall make payment of the sum so fixed, arrears of annuity and interest as aforesaid, deducting always such dividends as the Creditor shall have received before full payment as aforesaid.

43. Claiming or acting in the Sequestration not to discharge Coobligants.

And be it Enacted, That where a Creditor has an obligant bound to him along with the Bankrupt for the whole or part of the debt, such obligant shall not be freed from his liability for such debt in respect of any vote given, or dividend drawn by the Creditor under this Act, or of his assenting to the discharge of the Bankrupt, or to any composition; but such obligant may require and obtain at his own expense from such Creditor an assignation to the debt on payment of the amount thereof, and in virtue thereof enter a claim on the said estate, and vote, and draw dividends, if otherwise lawfully entitled to do so.

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44.
Oath not to supersede legal Evidence.

And be it Enacted, That in no case shall oaths of verity or credulity supersede production of legal evidence where required in any judicial discussion before the Court of Session, the Lord Ordinary, the Sheriff, or the Trustee.

45. Rule as to Majorities.

And be it Enacted, That all questions at any meeting of Creditors 20 shall be determined by the majority in value of those present and entitled to vote, unless in the cases herein otherwise provided for; and where, for the purpose of voting, the Creditors are required to be counted in number, no Creditor whose debt is under *Twenty* Pounds shall be reckoned in number, but his debt shall be computed 25 in value.

46. Proceedings at Meetings for election of Interim Factor or Trustee.

And be it Enacted, That Creditors or their mandatories qualified as aforesaid shall assemble at the times and places fixed respectively for the election of Interim Factor, and for election of the Trustee, with power to adjourn for such reasonable time as may seem fit; provided such adjournments do not postpone the meetings for the election of Interim Factor and Trustee beyond the limits of the periods within which these meetings are by this Act appointed to be held; and the Sheriff Clerk shall transmit or cause to be transmitted for exhibition to the meeting for the election of Interim Factor, the certified copy of the Petition for Sequestration, and deliverances thereon; and if Two or more Creditors shall give notice to the Sheriff or Sheriff Substitute of the county, such Sheriff or Sheriff Substitute (or in case of necessary absence, a Sheriff Substitute authorized by the Sheriff to act under this Act) shall attend the meeting, and adjourned meetings, and preside; and the Sheriff Clerk or his Deputy shall also attend, and mark the oaths and productions with his initials, and enter in the minutes the names and designations of the creditors, or the mandatories of Creditors,

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Creditors, and the amount for which they claim, and any other circumstances which the presiding Sheriff shall judge fit; which minutes the presiding Sheriff shall sign; and the Clerk shall retain the oaths of the several claimants, subject to exhibition thereof. in his hands, till the election shall be determined, when he shall deliver the same to the interim Factor or Trustee (as the case may be); and where the Sheriff or Sheriff Substitute are not present, the Creditors shall elect a Preses and Clerk, and the Preses shall mark the oaths and productions with his initials, and sign the minutes, and the Clerk shall in the presence of the meeting write the minutes: and the Creditors or their mandatories, who have produced their oaths and documents of debt, and who have been entered in the minutes, shall then and there elect a fit person to be Interim Factor, or to be Trustee (as the case may be), or two or more Trustees to act in succession in case of non-acceptance, death, resignation, removal or disqualification; and in the case of the Sequestration of the estates of a Company and of the partners, one Interim Factor and (as the case may be) one Trustee for all the estates, or separate Interim Factors or (as the case may be) separate Trustees on the estates of 20 the Company, and on the estates of all or each of the individual partners, and trustees in succession as aforesaid: And it shall not be lawful to elect as Interim Factor or Trustee the Bankrupt, or any person conjunct and confident with the Bankrupt, or who holds an interest opposed to the general interest of the Creditors, or whose 25 residence is not within the jurisdiction of the Court of Session.

> dinary Substitute is pro-

And be it Enacted, That if the Sheriff or ordinary Sheriff Substitute be present at the election either of Interim Factor or Trustee, and there be no competition or objection stated to the candidate, he shall, by a deliverance on the minutes, declare the person chosen by the Creditors to be Interim Factor or Trustee; and if there be competition or objection to the candidate or candidates, any objections shall be stated at the meeting, and forthwith disposed of by the Sheriff or ordinary Sheriff Substitute, or he may make avizandum, and he shall, if necessary, make a short note of the 35 objections and of the answers, on which he shall, within Four Days after the meeting, hear parties vivâ voce, and declare the person to be Interim Factor, or (as the case may be) the person or persons, trustee or trustees in succession, whom he shall find to have been duly elected, and state the grounds of his decision in a note.

Provided always, and be it Enacted, That where the officiating Sheriff, present at the said meeting for the election, is a Sheriff Substitute appointed to act in the absence of the Sheriff or of the ordinary Sheriff Substitute of the county, or where the Preses has been elected by the Creditors, such Substitute or Preses (whether there be any competition or not), shall forthwith report the proceedings to the Sheriff or ordinary Sheriff Substitute, and the oaths of the several claimants

48. Where the Sheriff or ordinary Substitute is not

shall, if the Sheriff Clerk or his Depute be present, remain in his possession, or, if he be not present, shall be transmitted to the Sheriff Clerk by the Preses, to be retained by him till the Interim Factor or Trustee (as the case may be) shall be finally appointed, when he shall deliver the same to such Interim Factor or Trustee; and if there be no competition, the Sheriff or ordinary Substitute shall declare the person elected Interim Factor or (as the case may be) Trustee or Trustees in succession; and if there be competition, the parties shall, within Four Days from the date of the said meeting, lodge in the hands of the Sheriff Clerk short notes of objections, and the Sheriff or ordinary Sheriff Substitute shall forthwith hear parties thereon vivâ voce, and give his decision, and state the grounds thereof in a note; and the deliverance of the Sheriff or Sheriff Substitute, declaring the person elected to be Interim Factor, shall be final, and in no case be subject to review in any court or in 15 any manner whatever.

49. Amount of Caution to be fixed, and Bond to be lodged.

And be it Enacted, That the Creditors shall at the said meetings respectively fix a sum for which the Interim Factor shall find security, and for which the Trustee to be confirmed shall also find security, for their respective intromissions and performance of the 20 duties and rules hereby enacted, and shall also decide on the sufficiency of the caution offered by the respective competitors; and the Interim Factor and the person declared to be Trustee shall respectively forthwith lodge with the Sheriff Clerk a Bond of Caution, signed by the Interim Factor and his Cautioner, and by the Trustee 25 and his Cautioner (as the case may be) in the form of the Schedule (D.) hereunto annexed, which bond shall be furnished to him by the Sheriff Clerk

50. Confirmation and Act and Warrant to be issued.

And be it Enacted, That on the Bond for the Trustee being lodged, the Sheriff shall confirm the election of the person 30 chosen Interim Factor, and any competition being concluded or objections disposed of in manner herein provided, the Sheriff shall in like manner confirm the election of the person chosen Trustee; which deliverance shall be final and not subject to review in any Court or in any manner whatever, and the Sheriff 35 Clerk shall thereupon issue an Act and Warrant in the form of Schedule (E.) hereunto annexed, to the Interim Factor; and in the case of the election of Trustee, an Act and Warrant in the form of Schedule (F.) hereunto annexed, to the Trustee; and the Interim Factor or Trustee (as the case may be) shall immediately transmit a 40 copy of the said Act and Warrant to the Bill Chamber Clerks, who shall thereupon make an entry of the name and designation of the Interim Factor and of the Trustee (as the case may be) in the Register of Sequestrations; and the said Act and Warrant shall be an effectual title to the Interim Factor and Trustee respectively to perform the duties hereby imposed on them, and shall

And to be a title as Interim Factor or Trustee.

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be evidence of the Trustee's right and title to the said estates for the purposes of this Act; and a copy of the said Act and Warrant in favour of the Interim Factor or Trustee certified by one of the Bill Chamber Clerks, and authenticated by the seal of the Court of Session, shall be received in all courts and places within England, Ireland and Her Majesty's other dominions, as evidence of the title, and shall entitle the Trustee or Interim Factor to recover any debt due to the Bankrupt and to maintain actions in the same way as the Bankrupt might have done if his estates had not been sequestrated.

And be it Enacted, That in case the Creditors shall fail to elect an Interim Factor, or the nomination shall otherwise fail, the interim care and management of the estate shall devolve on the Sheriff Clerk of the county; and the Sheriff shall have power upon cause shown by any of the Creditors at any time after the sequestration, and before the election of an Interim Factor, to seal up and cause to be put under safe custody the books and papers of the bankrupt, and to lock up his shop, warehouse or other repositories, and to keep the keys thereof till a Factor is named, or the care of the estate devolved on the Sheriff Clerk, subject to such orders as the Sheriff may see fit for preservation.

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51. Sheriff Clerk to act if no Interim Factor elected.

Power to Sheriff to seal up and preserve estate, before election of Factor.

And be it Enacted, That the Interim Factor shall, immediately on receiving the Act and Warrant of his appointment, or, failing him, the Sheriff Clerk shall take such steps as may be necessary for the preservation of the estate until the meeting of the Creditors for the election of Trustee; and he shall take possession of and recover the Bankrupt's estate, and his title-deeds, books, bills, vouchers, and all other documents whatsoever, so far as then known, and make an inventory thereof, and he shall transmit a copy of such inventory to the Bill Chamber Clerks; and he shall lodge in Bank 30 all monies received by him as hereinafter directed, and he shall pay to the petitioning or concurring Creditor, out of the first funds which shall come into his hands, the expense incurred by him in obtaining the Sequestration, and doing the other acts hereby required prior to the election of the Interim Factor, as the same shall be taxed; and if the funds received by the Interim Factor or Sheriff Clerk shall not be sufficient, such expenses shall be paid by the Trustee, when he shall be appointed, out of the first of the funds which shall come into his hands.

52. Duties of Interim Factor.

To lodge Money in Bank, &c.

And be it Enacted, That the Bankrupt shall with all despatch, and before the time appointed for the election of Trustee, make up and deliver to the Interim Factor (or Sheriff Clerk, as the case may be) a state of his affairs, specifying his whole estate, wherever situated, the estates in expectancy or to which he may have an eventual right, the names and designations of his Creditors and 23.

53. Bankrupt to make up state of affairs, and give information and assistance.

Debtors, and the debts due by and to him, and a rental of his heritable subjects, which state and rental shall be subscribed by the Bankrupt and preserved by the Interim Factor or Sheriff Clerk acting as Factor, and abstracts thereof shall be ingrossed in a Sederunt Book to be kept by him; and the Bankrupt shall at all times give every information and assistance necessary to enable the Interim Factor or Sheriff Clerk acting as Factor or the Trustee to execute his duty; and if the Bankrupt fail to do so, or to grant any deed which may be requisite for the recovery of the estate, the Interim Factor or Sheriff Clerk acting as aforesaid, or Trustee, may apply to the Sheriff to compel him to give such information and assistance, and to grant such deed, under the penalty of incarceration and of forfeiture of the benefits of this Act; and, unless cause be shown to the contrary, the Sheriff shall issue a warrant of incarceration accordingly.

54. At meeting to elect Trustee, Interim Factor to exhibit States, and be remunerated.

And be it Enacted, That at the time and place appointed for the 15 said meeting to elect a Trustee, the Interim Factor (or Sheriff Clerk) shall exhibit the Sederunt Book containing the said inventory, state and rental, and also an account of his intromissions and disbursements, and if required by any Creditor, the books of the Bankrupt, with the title-deeds, bills, vouchers and other documents, conform to inventory; and if the meeting be satisfied that the Interim Factor (or Sheriff Clerk) has duly lodged the money and performed his duties, they shall fix his remuneration, and he shall receive payment thereof, and of all advances made by him out of the funds in his hands: and if the Interim Factor (or Sheriff Clerk) be dissatisfied with the sums allowed, the same shall be determined by the Sheriff; but the Interim Factor (or Sheriff Clerk) shall not be entitled, in respect of non-payment thereof or on any other ground, to retain any part of the estate, and he shall be bound forthwith to deliver the estate, books, title deeds, bills, vouchers, and the said 30 state, rental, and all other documents to the Trustee, who shall, if sufficient funds have not been realized by the Interim Factor (or Sheriff Clerk), pay the said remuneration and advances out of the first money which shall come into his hands.

55. Appeal against Election of Trustee.

And be it Enacted, That any Creditor or Competitor giving notice in writing to the Sheriff Clerk, within Two Days after the date of the Sheriff's deliverance confirming the election of the Trustee, of his intention to appeal against such deliverance, shall be entitled to appeal during Session to the Inner House of the Court of Session, or in vacation to the Lord Ordinary, provided that, in the case of competition, a Bond of Caution for the Competitor, signed by a Cautioner approved of at the said meeting, for election of Trustee, shall along with such notice be lodged with the Sheriff Clerk, and a certificate thereof by the Sheriff Clerk, with a note of appeal against such deliverance, be lodged with and marked by the Clerk of the Bill Chamber within Fourteen

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Fourteen Days from the date of such deliverance; and on a copy of such note, certified by one of the Bill Chamber Clerks, being delivered to the Sheriff Clerk, he shall forthwith transmit to the Bill Chamber the minutes of election, together with such of the proceedings as may be required; and the Inner House, or the Lord Ordinary (as the case may be) shall thereupon hear parties vivâ voce, and decide which of the Competitors has been duly elected, or may order a new election, and appoint a time and place for that purpose; and if the appealing Competitor shall be pre-10 ferred, a remit shall be made to the Sheriff to confirm him; and no Expense part of the expense of such competition, either before the Sheriff Court or any other court, shall be paid out of the estate, but the expenses shall be ordered to be paid by the unsuccessful party to the successful party.

And be it Enacted, That no appeal shall have the effect to stop 15 the proceedings in the Sequestration; and the Interim Factor (or tration. Sheriff Clerk, as the case may be) shall continue to act until a Interim Fac-Trustee shall be finally confirmed; and on every new election an tinue to act. appeal may be made and other proceedings take place in manner before provided; and the Interim Factor shall deliver to the person confirmed Trustee the estate of the Bankrupt, with the books, titledeeds and other documents in his possession, and account to him for his intromissions; and the Creditors may at any meeting (which, if required, the Trustee shall call) make an allowance to the Interim Factor (or Sheriff Clerk) for his trouble during the period of his administration, subject to review of the Sheriff as aforesaid; and Remunerathe Trustee shall pay the sum so allowed, and the expenses incurred by the Interim Factor or Sheriff Clerk out of the first of the funds.

56. Appeal not to

tion to In-terim Factor.

And be it Enacted, That at the meeting for election of Trustee, the Creditors present, or their Mandatories, shall, after the election of sioners. the Trustee, elect Three Commissioners (if there be so many Creditors who have claimed), who shall be either Creditors or Mandatories of Creditors, and the same proceedings shall take place in regard to their election as is provided in regard to the election of Trustee, (except that they shall not be bound to find security), and the Sheriff shall decide who are the persons duly elected, and declare their election by a deliverance in the Sederunt Book, which shall entitle them to act without further authority; and a majority of them shall be a quorum: Provided that no person shall be eligible as a Commissioner who is disqualified to be a Trustee; and any Mandatory who has been elected a Commissioner shall lose that office upon written intimation being sent by his constituent to the Trustee that he has recalled the mandate, and the Trustee shall immediately record the intimation in the Sederunt Book; and the Trustee shall, in all cases where a Commissioner has declined to act, or resigned,

_C 3

23.

Disqualifica-

call

call a meeting of Creditors for the purpose of electing a new Commissioner, and such Commissioner shall be elected in manner hereinbefore provided.

58. Duties of Commissioners.

And be it Enacted, That the Commissioners shall superintend the proceedings of the Trustee, concur with him in submissions and transactions, give their advice and assistance relative to the management of the estate, examine the acts and intromissions of the Trustee, audit his accounts, decide as to paying or postponing payment of a dividend, fix his remuneration, and may assemble at any time to ascertain the situation of the Bankrupt estate; and any One of them may make such report as he may think proper to a general meeting of the Creditors.

59. Offer of Composition may be made at this Meeting.

Renewal of personal Protection.

And be it Enacted, That at the said meeting for election of a Trustee, or at the meeting held after the examination of the Bankrupt, or at any meeting called for the purpose, an offer of composition 15 may be made to the Creditors in manner hereinafter provided; and the majority in number and value of the Creditors present at these meetings or at any other meetings called for the purpose, may resolve that the personal protection of the Bankrupt ought to be renewed for such time as they may think fit, and in such case the 20 Trustee shall apply to the Sheriff, who shall renew the protection; and the deliverance by him renewing the same, or an extract thereof signed by the Sheriff Clerk, shall have the same effect as the original warrant of protection.

60.
Allowance to
Bankrupt.

And be it Enacted, That at the said meeting for election of a Trustee, or at the meeting held after the examination of the Bankrupt, or at any meeting called for the purpose, Four-fifths in value of the Creditors present may authorize payment from time to time to the Bankrupt, or to the partners of a Company (if the Sequestration be of a Company estate), of such sum out of the estate as they shall think proper for subsistence until the period assigned for payment of the second dividend, but such allowance shall not exceed Three Guineas per week to the Bankrupt, or to each individual partner of a Company from the date of the Sequestration to the period aforesaid; and no allowance shall be given if the Bankrupt shall not have complied with the provisions of this Act.

61. Entry of Confirmation in Register of Adjudications.

And be it Enacted, That the Trustee, within Twenty-one Days after his election is confirmed, shall present an abbreviate, signed by him or his agent, in the form of Schedule (G.) hereunto annexed to the Keeper of the Register of Abbreviates of Adjudications, who shall forthwith record the same, and the like proceeding shall take place within Twenty-one Days after the election of each new Trustee shall be confirmed.

And

129

Trustee's Duties.

Money to be lodged in Bank by him and Interim Factor.

And be it Enacted, That the Trustee shall manage, realize and recover the estate belonging to the Bankrupt wherever situated, and convert the same into money, according to the directions given by the Creditors at any meeting, and if no such directions are given, he shall do so, with the advice of the Commissioners; and he as well as the Interim Factor or Sheriff Clerk shall lodge all money which he may receive in such Bank as Four-fifths of the Creditors in number and value at any general meeting shall appoint, and failing such appointment in one or other of the following Banks; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company, the Commercial Bank of Scotland, or the National Bank of Scotland (provided that the Bank be not one in which the Interim Factor or Trustee shall be an acting partner, manager, or cashier); and the same shall be lodged 15 in the name of the Interim Factor, or Sheriff Clerk, or Trustee in his official character under this Act, at the highest rate of interest which can be procured for the same; and such Bank shall, once yearly at least, balance the said account, and accumulate the interest with the principal sum, so that both shall thereafter 20 bear interest as principal; and if the Bank fail to do so, such Bank shall be liable to account as if such money had been so accumulated.

63.
Twenty per cent. on
Money not lodged.

And be it Enacted, That if either the Interim Factor, or Sheriff Clerk or Trustee, shall keep in his hands more than Fifty Pounds of cash belonging to the estate for more than Ten Days, he shall pay a sum to the Creditors at the rate of Twenty per centum per annum on the excess of the said sum of Fifty Pounds, for such time as it shall be in his hands beyond the said Ten Days; and unless the money has been kept from innocent causes, the Interim Factor or Trustee shall be dismissed from his office upon petition to the Lord Ordinary by any Creditor, and be liable in expenses, and have no claim to remuneration.

And be it Enacted, That the Trustee shall keep a Sederunt Book, in which he shall record all minutes of Creditors and of Commissioners states of Accounts, Reports, and all the proceedings necessary to give a correct view of the management of the estate, and he shall also keep regular Accounts of the affairs of the estate, and transmit to the Bill Chamber Clerk before each of the periods herein assigned for payment of a dividend, a Copy certified by himself of such Accounts, and such copies shall be preserved in the office of the said Clerk; and the said Sederunt Book and Accounts shall be patent to the Commissioners, and to the Creditors or their agents at all times: Provided always, That where any document is of a confidential nature (such as the opinion of counsel in regard to any

64.
Trustee to keep a Sedctunt Book and Accounts, and send copy of Accounts to Clork.

matter affecting the interests of the Creditors on the estate), the

Trustee shall not be bound to insert it in the Sederunt Book, or to exhibit it to any other person than the Commissioners, unless he be ordered by competent authority to do so.

65. Interim Factor, Sheriff Clerk, Trustee and Commissioners amenable to Lord Ordinary and Sheriff.

And be it Enacted, That the Interim Factor, Sheriff Clerk, Trustee and Commissioners shall be amenable to the Lord Ordinary and to the said Sheriff, although resident beyond the territory of the said Sheriff, at the instance of any party interested, to account for their intromissions and management, by petition, served on them; and in case it shall appear that such application ought not to have been made, the party complained of shall be entitled to his full expenses 10 to be either retained out of the funds or recovered from the party complaining, as the Lord Ordinary or the Sheriff shall direct.

5.

66. Sheriff to appoint day to examine Bankrupt; and Meeting of Creditors to be pub-lished.

And be it Enacted, That the Trustee shall within Eight Days after the date of confirmation, apply to the Sheriff to name a day for the public examination of the Bankrupt; and the Sheriff shall 15. issue his warrant for the Bankrupt to attend within the Sheriff Court-house or other convenient place, on a day and at an hour (being not sooner than Fourteen Days nor later than Twenty-one Days from the date of his warrant), and on the Sheriff granting such warrant, the Trustee shall publish an advertisement, in terms of 20 Schedule (H.) hereunto annexed, in the Edinburgh Gazette, intimating to the Creditors his name and designation, his election as Trustee, the day, hour and place fixed for the examination of the Bankrupt, and also a specified day (being not sooner than Fourteen Days nor later than Twenty-one Days after the day appointed for 25. the examination of the Bankrupt, or in the case of a deceased Debtor not sooner than Fourteen Days nor later than Twenty-one Days from the date of the Trustees' confirmation), and the hour and place for holding a meeting of the Creditors.

67. Warrant to apprehend Bankrupt for examination.

And be it Enacted, That it shall be competent for the Sheriff 30 to grant warrant to apprehend the Bankrupt, and bring him before the Sheriff for examination; and if the Bankrupt be incarcerated for a debt or other civil obligation, within Scotland, the Sheriff may grant warrant to Magistrates and gaolers, on receiving a duplicate of such warrant, and an acknowledgment for the person of the 35 Bankrupt, to deliver him to the officer presenting the same, and they shall do so accordingly; and the Sheriff may also grant warrant to bring the Bankrupt from the Sanctuary, which warrant shall protect against arrest for debt, or other civil obligation, while under examination, and on the way to and from the place of examination; 40 and such warrants shall be sufficient authority, either within or beyond the territory of the said Sheriff, in Scotland, to messengers at arms, and to the officers of the said Sheriff, to apprehend, transmit,

transmit, detain, and incarcerate, and to gaolers to deliver up, receive and detain the Bankrupt until his examination is concluded, and also for his retransmission after examination to the gaol from which he was delivered up, and reincarceration therein; and if the Bankrupt cannot conveniently be brought from gaol or the Sanctuary, or cannot be examined by the Sheriff there, or is by a lawful cause prevented from attending at the time and place appointed, or is in custody on a criminal charge, or is abroad, the Sheriff may grant commission to take the examination; and the Sheriff or Commissioner may, if he shall see cause, adjourn the examination of the Bankrupt to an early time to be then fixed, and the Sheriff may, on the application of the Trustee, order the Bankrupt to be examined as often as he shall see fit; and the examination may, at the discretion of the Sheriff or the Commissioner, be upon oath.

68.

And be it Enacted, That if the Bankrupt be in any part of Great Warrant Britain and Ireland other than Scotland, the Lord Ordinary may, on petition by the Trustee, grant warrant, under the seal of the Court of Session, to all Judges, Magistrates, Justices of the Peace and Officers of the law, to apprehend and transmit him to the place 20 of his examination, and to enforce the same, which they are hereby required to do; and if the Bankrupt be in prison or custody, the Lord Ordinary may grant warrant, as aforesaid, to Magistrates and gaolers, upon receiving a duplicate of such warrant, and an acknowledgment for the person of the Bankrupt, to deliver him to the messenger or officer presenting such warrant, which they shall do accordingly; and such warrant shall be sufficient authority for the apprehension, transmission, detention and incarceration of the Bankrupt (where necessary for his safe custody) and for his retransmission after examination to and re-incarceration in the prison 30 or custody from which he was delivered up.

And be it Enacted, That the Sheriff may at any time, on the application of the Trustee, order an examination of the Bankrupt's wife and family, clerks, servants, factors, law agents and others who can give information relative to his estate, either by declara-35 tion or on oath, as to the Sheriff shall seem fit; and issue his warrant requiring such persons to appear; and if they refuse or neglect to appear when duly summoned, the Sheriff may issue another warrant to apprehend the person so failing to appear: Provided that where such person is not the Bankrupt, nor his wife, nor one of his family, nor his clerk or servant, no warrant for apprehension shall be issued until the expiration of Eight Days from the service of the first warrant, unless the Trustee shall on oath specify a reasonable cause of belief that such person intends to leave the country to avoid the examination, in which case the Sheriff may

6g. Other perand, if neces sary, appre-hended.

may forthwith issue such warrant; which several warrants shall be sufficient to authorize messengers at arms, or the officers of the said Sheriff, to execute the same either within or without the territory of the Sheriff in Scotland as aforesaid; and if any person liable to be examined as aforesaid cannot conveniently attend for examination, the Sheriff may grant commission to take his examination, and such examination, whether by the Sheriff or by a commissioner, may be adjourned, if seen fit, to an early time to be then fixed.

70. Must answer all lawful questions, &c.

And be it Enacted, That the Bankrupt and the said persons shall answer all lawful questions relating to the affairs of the Bankrupt; and the Sheriff may order such persons to produce for inspection any books of account, papers, deeds, writings, or other documents in their custody relative to the Bankrupt's affairs, and cause the same or copies thereof to be delivered to the Trustee: Provided that persons other than the Bankrupt, summoned to attend for examination, shall be entitled to such allowances as witnesses are in other cases entitled to, and the amount of which, if disputed, shall be fixed by the Sheriff.

Parties entitled to expenses as Witnesses.

71. Effect of refusal to answer, &c.

And be it Enacted, That if the Bankrupt, or any of the said persons, shall refuse to be sworn, or to answer, to the satisfaction of the Sheriff, any lawful question put to him by the Sheriff or Trustee, or by any Creditor with the sanction of the Sheriff, or without lawful cause shall refuse to sign his examination, or produce books, deeds or other documents in his custody or power, relating to the estate, the Sheriff may grant warrant to commit him to prison, there to remain until he comply with the order; which warrant shall specify the question and answer, book, deed, document, or the refusal to swear or to sign the examination; and such warrant shall not be subject to the review of the Court of Session, but the Bankrupt or person incarcerated may apply by written petition (without argument) to the Lord Ordinary for a recall of the warrant; and the Lord Ordinary shall order the petition to be served on the Trustee or the said Creditor, and shall thereafter hear parties vivâ voce, and pronounce judgment.

72. Latent Partners must disclose themselves.

And be it Enacted, That if any Latent Partner of a Company whose estates have been sequestrated shall not, by intimation to the Interim Factor or Trustee, acknowledge that he is a partner, on or before the day appointed for the examination of the known partners, he shall not be entitled to the benefits or privileges of this Act, unless in an application for the same he satisfy the Lord Ordinary that the omission proceeded from innocent mistake, or ignorance of the proceedings, or reasonable misconception as to his liability as a partner, and unless he shall then follow out all necessary steps for remedying, as far as possible, the loss and inconvenience thence arising.

And

And be it Enacted, That the Bankrupt, before the close of his examination, may make such additions to or alterations upon the state of his affairs as may have occurred to him to be necessary to give a full view of his affairs, which state, with the additions and alterations, shall be subscribed by the Sheriff and the Bankrupt; and the Bankrupt shall then take the following oath, which shall be engrossed in the Sederunt Book, and subscribed as aforesaid, as relative to the said state; and where the Bankrupt is a partner with others, and examined respecting the affairs of the partnership, the words of the oath shall so far be varied as to make it applicable to the case; and when he is by law entitled to make an affirmation in place of an oath, it shall be sufficient to take his solemn affirmation upon the matters contained in the said oath, which shall be engrossed and subscribed as aforesaid:

73. Bankrupt may correct his State, and must take Oath.

"I DO, in the presence of Almighty God, and as I shall answer to Oath. 15 God at the great Day of Judgment, solemnly swear, That the state of my affairs subscribed by me, as relative hereto, contains a full and true account, to the best of my knowledge and belief, of all the debts of whatever nature due to me, and of all my estate and effects, heritable and moveable, real and 20 personal, wherever situated (the necessary wearing-apparel of myself, my wife and family, only excepted), as well as of all claims which I am entitled to make against any person or persons whatsoever, and of all estate in expectancy, or means of whatever kind to which I have an eventual right by con-25 tract of marriage, trust-deed, settlement, deed of entail, or otherwise; and that the said state likewise contains a full and true account of all debts due by me, or demands upon me; and that I have delivered up the whole books, documents, accounts, title-deeds, and papers of every kind be-30 longing to me which in any way relate to my affairs, and which were or are in my possession or under my power; and that I have made a full disclosure of every particular relating to my affairs: And further I promise and swear, That I will forthwith reveal all and every other circumstance or particu-35 lar relative to my affairs which may hereafter come to my knowledge, and which may tend to increase or diminish the estate in which my Creditors may be interested, directly or So help me GOD." indirectly.

And be it Enacted, That within Fourteen Days after the examin-40 ation of the Bankrupt, the Trustee shall prepare a Report, setting forth the state of the Bankrupt's affairs, and an estimate of what it may produce, which Report he shall exhibit at the meeting of the Creditors to be held after the examination of the Bankrupt, and give all explanations relative thereto; and the Creditors then D 2 assembled 23.

Meeting to be held and Trustee to prepare Report after Bankrupt's examination. assembled may receive any offer of composition as hereinafter provided, and may, either at this or any other meeting called for the purpose, give directions for the recovery, management and disposal of the estate; and where any part of the estate consists of land or other heritable subjects, it shall be optional to the Creditors to determine whether the Trustee is to bring the said heritable estate to judicial sale, or to dispose thereof by voluntary public sale.

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75. Meetings may be called at any time.

And be it Enacted, That the Trustee or any Commissioner may at any time call a meeting of the Creditors, and the Trustee shall call such meeting when required by *One-fourth* in value of the 10 Creditors ranked on the estate.

76.
Advertisements of
Meetings.

And be it Enacted, That wherever it is in this Act directed that a meeting of Creditors shall or may be called or held, a Notice of the day, hour, place and purpose of the meeting shall be advertised in the Edinburgh Gazette *Fourteen* Days at least before the day of 15 the meeting (except in the case of the meeting for the election of Interim Factor), and such meeting may be adjourned to the following day.

77.
To what
Creditors
Notices
through Post
Office not to
be sent.

And be it Enacted, That it shall not in any case be necessary to send any notification, as is by this Act directed to be sent, by post to 20 any Creditor whose debt shall be under Twenty Pounds, unless such Creditor shall have given directions in writing that such notification shall be sent; and no notification shall be sent to any Creditor who has directed that none shall be sent.

78.
Removal or resignation of Trustee.

And be it Enacted, That a majority in number and value of the 25 Creditors present at any meeting to be called by an advertisement published in the Edinburgh Gazette at least Fourteen Days before such meeting, specifying the purpose of the meeting, may remove the Trustee or accept of his resignation; and One-fourth of the Creditors in value may at any time apply by petition to the Lord Ordinary for removal of the Trustee; and the Lord Ordinary shall order the said petition to be served on the Trustee, and intimated in the Edinburgh Gazette: And if the Lord Ordinary shall be satisfied that sufficient reason has been shown, he shall remove the Trustee. and appoint a meeting of the Creditors to be held for devolving 35 the estate on the Trustee next in succession, or electing a new Trustee: And if the Trustee shall die, resign or be removed, or remain at any one time for Three Months furth of Scotland, any Commissioner or any Creditor ranked or claiming and entitled to be ranked, on the estate, may apply to the Sheriff for an order to hold a meeting for devolving the estate on the next Trustee in succession, or electing a new Trustee; and the Sheriff shall grant warrant to hold such meeting at a certain time and place, which

shall be advertised in the Edinburgh Gazette by the Commissioner or Creditor so applying; and at the time and place so appointed, the Creditors at such meeting may devolve the estate on the Trustee next in succession, or elect a new Trustee; and where the estate is devolved on such Trustee, the said Creditors shall fix the amount for which he shall find security, and on a bond being lodged the Sheriff shall confirm him, and an act and warrant shall be issued and recorded in the same way and to the same effect as on the first election of a Trustee; and in like manner in all cases of a new election of a Trustee, the procedure shall take place in the same way as is hereinbefore provided for the case of the first election; and the succeeding or the new Trustee shall be vested with the powers, and shall perform the duties, and be subject to the same rules as are herein before provided, and shall call to account the former Trustee or his heirs and representatives.

And be it Enacted, That the moveable estate and effects of the Bankrupt, wherever situated, so far as attachable for debt, shall, by virtue of the act and warrant of confirmation in favour of the Trustee, be transferred to and vested in him or any succeeding Trustee for behoof of the Creditors, absolutely and irredeemably as at the date of the Sequestration, with every right, title, and interest which was then in the Bankrupt, to the same effect as if actual delivery or possession had been obtained or intimation made at that date, subject always to such preferable securities as existed at the date of the Sequestration, and are not null or reducible.

79. Vesting of the moveable Estate in the Trustee.

And be it Enacted, That the whole heritable estates belonging to the Bankrupt in Scotland shall, by virtue of the said act and warrant be transferred to and vested in the Trustee or any succeeding Trustee for behoof foresaid, absolutely and irredeemably, as at the 30 date of the Sequestration, to the same effect as if a decree of adjudication in implement of sale, as well as a decree of adjudication for payment and in security of debt, subject to no legal reversion, had been pronounced in favour of the Trustee, and recorded at the date of the Sequestration, and as if a poinding of the ground had then been executed, subject always to such preferable securities as existed at the date of the Sequestration, and are not null and reducible, and the Creditors' right to poind the ground as hereinafter provided; and the right of the Trustee shall not be challengeable on the ground of any prior inhibition (saving the effect which such inhibition may be entitled to in the ranking of the Creditors): Provided always, That such transfer and vesting of the heritable estate shall have no effect upon the rights of the superior, nor upon any question of succession between the heir and executor of any Creditor claiming on the sequestrated estate, nor upon the rights of the Creditors of the ancestor (except that the act and warrant of confirmation shall operate in their favour

80. Vesting of the heritable Estate in the Trustee with all right, title and interest which was then in the Bankrupt.

Limitations and qualifications of the Trustee's right.

as complete diligence); and if the right to any part of the Bankrupt's heritable estate be entailed or otherwise limited, the right vested in the Trustee shall be effectual only to the extent of the interest in the estate which the Bankrupt might legally convey, or which the Creditors might validly attach.

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81.
Estates in
England,
Ireland and
other British
dominions.

And be it Enacted, That all lands, tenements and hereditaments in England, Ireland or in any of Her Majesty's dominions, to which the Bankrupt is entitled, and all interest to which he is entitled in any such lands, tenements or hereditaments, and of which he might, according to the laws of England, Ireland, or other Her Majesty's 10 dominions, have disposed, and all such lands, tenements and hereditaments which he shall purchase, or which shall descend, be devised, revert to, or come to the Bankrupt before he shall have obtained his discharge, and all deeds, papers and writings respecting the same, shall, by virtue of the act and warrant of confirmation, vest in and belong to the Trustee for the purposes of this Act, as at the date of the Sequestration: Provided that where, according to the laws of England, Ireland or other Her Majesty's dominions, any deed or conveyance would require registration, enrolment, or recording, the act and warrant of confirmation shall be so registered, 20 enrolled or recorded according to the laws of England, Ireland or other Her Majesty's dominions; and if any purchase is made by any person for valuable consideration, and without notice of the Sequestration, prior to the registration, enrolment, or recording of the said act and warrant of confirmation, such purchase shall not be 25 invalidated by the existence of such act and warrant, or the subsequent registration, enrolment, or recording thereof.

82.
Acquisitions of Bankrupt after the Sequestration to belong to the Creditors.

And be it Enacted, That if any estate, wherever situated, shall, after the date of the Sequestration, and before the Bankrupt has obtained his discharge, be acquired by him, or descend or 30 come to him, the same shall ipso jure fall under the Sequestration, and the full right and interest accruing thereon to the Bankrupt shall be held as transferred to and vested in the Trustee for the purposes of this Act; and the Trustee shall, on coming to the knowledge of the fact, present a petition setting forth the circumstance 35 to the Lord Ordinary, who shall appoint intimation to be made in the Edinburgh Gazette, and require all concerned to appear within a certain time for their interest; and after the expiration thereof, and no cause shown to the contrary, the Lord Ordinary shall declare all right and interest in such estate which belongs to the Bankrupt to 40 to be vested in the Trustee, as at the date of the acquisition thereof or succession thereto, to the same effect as is hereinbefore enacted in regard to the other estates; and the proceeds thereof when sold shall be divided in terms of this Act; and if the Bankrupt do not immediately

immediately notify to the Trustee that such estate has been acquired or has come to him as aforesaid, he shall forfeit all the benefits of this Act, and it shall be competent to the Trustee to examine him as aforesaid in relation thereto: Provided always, That the rights of the Creditors of the person from whom such estate shall come or descend to the Bankrupt shall be reserved entire.

And be it Enacted, That the Sequestration shall, as at the date sequestration of the first deliverance, be equivalent to a decree of adjudication of the heritable estates of the Bankrupt for payment of the whole 10 debts of the Bankrupt, principal and interest, accumulated at the date of the first deliverance, and when it is dated within year and day of any effectual adjudication, the estate shall be disposed of under the Sequestration, according to the provisions of this Act: Provided always, That nothing herein contained shall affect the 15 rights of any heritable Creditor holding a power of sale preferable to the Trustee.

83. equivalent to an Adjudication in Competition.

And be it Enacted, That the Sequestration shall, as at the date of the first deliverance, be equivalent to an arrestment in execution and decree of forthcoming, and to an executed or completed 20 poinding; and no arrestment or poinding executed of the funds or effects of the Bankrupt on or after the Sixtieth Day prior to the Sequestration, or executed after the date of the Sequestration shall be effectual; and such funds or effects or the proceeds of such effects, if sold, shall be made forthcoming to the Trustee: Provided that 25 the arrester or poinder, before the date of the Sequestration, who shall be thus deprived of the benefit of his diligence, shall have preference out of such funds or effects for the expense bonâ fide incurred by him in such diligence.

And to Arrestment and Poinding.

Sixty Days before Sequeseffectual.

Expenses of Diligence.

And be it Enacted, That where the Sequestration of the estates 30 of a deceased Debtor is dated within Seven Months after his death, any preference or security for any prior debt acquired by legal diligence on or after the Sixtieth Day before his death, or subsequent to his death, and any preference or security acquired for a prior debt by any act or deed of the Debtor, which has not been lawfully completed 35 more than at least Sixty Days before his death, and any confirmation as Executor Creditor after the Debtor's death, shall in these several cases be of no effect in competition with the Trustee; and the estates and effects over which such preferences or securities shall have been obtained, or of which confirmation shall have been expede, shall belong to the Trustee: Provided always, That the Creditor who is so deprived of the benefit of his diligence or confirmation, shall have preference for payment out of the said estates or effects 23. D 4

85. Preferences of the expenses bona fide incurred by him in such diligence or confirmation.

86. Acts and Payments by Bankrupt after Seque tration null. except in certain cases.

And be it Enacted, That all payments and preferences obtained by or granted to prior Creditors, and all acts done or deeds granted by the Bankrupt after the date of the Sequestration and before his discharge out of or in relation to the estate (unless with the consent of the Interim Factor or Trustee) shall in the event of Sequestration being awarded be null and void; and the Trustee shall be entitled to such preference and to any money after such date, so paid, deducting any expense bonâ fide incurred; but if a Debtor, 10 ignorant of the Sequestration, shall have paid his debt bonâ fide to the Bankrupt, he shall not be obliged to pay it a second time to the Trustee.

87. Subjects improperly included in Sequestration may be struck out.

And be it Enacted, That any person claiming right to any estate included in the Sequestration may present a Petition to the Lord 15. Ordinary, praying to have such estate struck out of the Sequestration; and the Lord Ordinary shall order the Trustee to answer within a certain time, and on expiration of such time he shall proceed to dispose of the application.

88. Trustee may complete feudal Titles, or grant such Rights as Bankrupt could do.

And be it Enacted, That the Bankrupt shall, if required, grant 20. all deeds necessary for recovering and feudally vesting his estates in the Trustee for the purposes of this Act; and if the Bankrupt's title to any estate has not been completed, the Trustee may complete titles in his own person, whom failing in favour of any Trustee who may succeed him, for behoof of the Creditors, or in the person of 25 the Bankrupt; and superiors shall, if required, enter the Trustee, or the purchaser from him, in terms of law; and the Trustee may, without making up a feudal title in his person, and without concurrence of the Bankrupt, grant conveyances of the heritable estate belonging to the Bankrupt, with such procuratories, precepts or other warrants as the Bankrupt might competently have granted, which conveyances shall be as effectual to the purchaser as if they had been granted by the Bankrupt with concurrence of the Trustee, and shall not be affected by any inhibition against the Bankrupt, reserving the effect of such inhibition in the ranking.

89. Trustee may get Property transferred to him, although Heir of Bankrupt has made up Titles.

And be it Enacted, That where Sequestration is awarded against the estate of a person after his death, and his successor has made up a title to his heritable estate, the Trustee may apply by petition to the Lord Ordinary, praying that such estate shall be transferred to and vested in him; and the Lord Ordinary shall order the petition to 40 be served upon such successor, and require him to answer the same within

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within Fourteen Days; and on such petition and deliverance being recorded in the general or particular Register of Inhibitions, it shall have the effect of an Inhibition; and if on expiration of that period no cause is shown to the contrary, the Lord Ordinary shall declare such estate to be transferred to and vested in the Trustee as at the date of the Sequestration, to the same effect as is hereinbefore provided, in regard to the act and warrant of confirmation; and the Trustee shall within Eight Days thereafter cause such petition and decree to be recorded in the Register of Abbreviates of Adjudica-10 tions, as before provided.

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Adiudica-

And be it Enacted, That if the Creditors at the meeting held after the examination of the Bankrupt, or at any other meeting called for the purpose, resolve that the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale, and if such resolution has been made before a Creditor holding a power of sale shall have commenced proceedings for sale, or if such proceedings, after being commenced prior to the date of such resolution, have thereafter been unduly delayed, such Creditor shall not be entitled to interfere with the sale by the Trustee.

Circumstances in which Heritable Creditors not to

And be it Enacted, That if a public sale of the heritable estate be resolved on, such sale shall be made by auction at the upset price, and in the manner which shall be fixed by the Trustee, with consent of the Commissioners; and if the estate be sold, the Trustee, with consent of the Commissioners, shall grant a disposition to the purchaser, which shall have the effect of conveying whatever right is in the Trustee, under burden of the securities preferable to the right of the Trustee, but shall discharge the estate of all securities not preferable to the right of the Trustee, and of all diligence not completed at the date of the Sequestration.

91. Public Sale of Subjects;

Effect on Securities.

And be it Enacted, That if a Creditor holding an heritable security, with a power to sell, concur with the Trustee in bringing the estate to sale, the Trustee shall sell the same in his own name, and the articles of roup and conveyance to the purchaser shall be executed by the Trustee, with consent of the said Creditor and the 35 Commissioners, and the price shall be paid by the purchaser to the parties legally entitled thereto, and, in so far as not paid at the time of the delivery of the conveyance, it shall be consigned in the bank in which the money of the sequestrated estate is deposited; which payment or consignation of the price shall free and discharge the estate sold and the purchaser from all securities preferable to that of the said consenting Creditor, in so far as the debts in such securities are satisfied by such payment or consignation, and also from the security of the consenting Creditor, whether the debt in such security 23.

92. Heritable Creditor may allow Trustee to sell.

rity be satisfied or not, and from all securities postponed to the security of such Creditor.

93. Heritable Creditor, with power to sell, may sell.

And be it Enacted, That a Creditor who holds an heritable security preferable to the right of the Trustee, with a power to sell, may sell in terms of his Bond, notwithstanding the Sequestration; and it shall be competent to the Trustee to concur therein, in order to fortify the title; and he, or any posterior heritable Creditor preferable to him may, by petition to the Lord Ordinary or to the Sheriff, compel the Creditor and the purchaser to account for any reversion of the price.

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94. Judicial Sale.

Disposal of

And be it Enacted, That if the Creditors assembled as afore-said shall resolve on a judicial sale, the Trustee shall institute such an action, which may be carried on as to a part or the whole of the estate, and without any other proof of Bankruptcy than the act of Sequestration; and every heritable Creditor in possession shall be 15 cited upon induciæ of Fifteen Days, whether within Scotland or not, and it shall not be necessary to call any other parties; and on the estate being sold, the price, after satisfying any securities preferable to the right of the Trustee, shall be paid by the purchaser to the Trustee; and the purchaser shall, upon payment of the price, receive a discharge from the Trustee, which, with the decree of sale, shall free and discharge the estate in the same way as a decree of sale in an action of ranking and sale.

95. Expenses as against Heritable

Creditors.

And be it Enacted, That no part of the expenses of the Sequestration, nor of the sale in any way of the heritable estate, nor of the 25 Trustee's Commission, shall be payable out of such part of the price as may be necessary to discharge the securities on the heritable estate preferable to the right of the Trustee; and no heritable Creditor, or Creditor preferable to the Trustee on the heritable estate, shall be liable for the expense of the Sequestration, or the Trustee's commission, nor of such sale, unless he shall have consented to the sale, in which case he shall be liable for the expense of the sale.

96. Heritable Creditor's right to poind the Ground limited.

And be it Enacted, That no poinding of the ground which has not been carried into execution by sale of the effects at least Sixty Days before the date of the Sequestration, and no decree 35 of maills and duties on which a charge has not been given at least Sixty Days before the said date, shall (except to the extent hereinafter provided) be available in any question with the Interim Factor or Trustee: Provided always, That no Creditor who holds a security over the heritable estate preferable to the right of the Trustee shall be prevented from executing a poinding of the ground,

141

ground, or obtaining a decree of maills and duties after the Sequestration; but such poinding or decree shall, in competition with the Trustee, be available only for the interest on the debt for the current term, and for the arrear of interest for *Onc Year* immediately before the commencement of such term.

And be it Enacted, That nothing herein contained shall affect the landlord's right of hypothec.

97. Landlord's Hypothec

And be it Enacted, That the Lord Ordinary or Sheriff, on cause shown, may order that, for a period not exceeding *Three* Months from the date of the order, all letters addressed to the Bankrupt shall be delivered by the Postmaster General, or the officers acting under him, to the Interim Factor or Trustee, to be opened in presence of the Sheriff, after written notice to the Bankrupt to attend, if within Scotland; and in case the letters shall relate in whole or in part to the estate, they shall be placed in such custody as the Sheriff may direct; and the Lord Ordinary or Sheriff may, on cause shown, renew such order for a like period as often as shall be necessary.

98. Interim Factor or Trustee may be authorized to receive and open Post Letters.

And be it Enacted, That the Trustee may, with consent of the Commissioners, compound, and transact, or refer to arbitration any questions which may arise in the course of the Sequestration regarding the estate, or any demand or claim made thereon, and the compromise, transaction or decree-arbitral shall be binding on the Creditors and the Bankrupt.

99. Trustee and Commissioners may submit and transact.

And be it Enacted, That where any estate is sold by virtue of this Act, it shall be lawful for any Creditor to purchase the same; but the Interim Factor, Sheriff Clerk if acting as Factor, Trustee or Commissioners, shall not be entitled to purchase.

100. Creditors may

And be it Enacted, That the whole estate when reduced into money shall, after paying all necessary charges and a commission to the Trustee, be divided among those who were Creditors of the Bankrupt at the date of the Sequestration, ranked according to their several rights and interests.

Realized
Estate to be a Fund of Division.

And be it Enacted, That where there are sufficient funds realized, the first dividend shall be payable on the first lawful day after the expiration of Eight Months from the date of the Sequestration; and the second dividend shall be payable on the first lawful day after the expiration of Twelve Months from the said date of the Sequestration; and a dividend shall be payable on the first lawful day after the expiration of the sequestration.

102. Times at which Dividends to be paid. piration of Four Months from the date of the payment of the immediately preceding dividend, until the whole funds of the Bankrupt be distributed, subject always to the provisions hereinafter made.

103.
Time within which Creditors to produce oaths, &c., in order to receive payment of Dividends.

And be it Enacted, That to entitle any Creditor to payment of the first dividend, he shall produce, as hereinbefore directed, his oath and grounds of debt at least Two Months before the time fixed for payment of the first dividend: And to entitle any Creditor to payment of the second dividend, he shall produce as aforesaid his oath and grounds of debt at least Two Months before the time fixed for payment of the second dividend: And to entitle a Creditor o payment of any of the subsequent dividends, he shall produce as aforesaid his oath and grounds of debt at least Two Months before the day fixed for payment of the dividend which he means to claim: Provided, that if a Creditor has not produced his oath and grounds of debt in time to share in the first dividend, but has done so in time to share in the second dividend, he shall be entitled, on occasion of payment of the second dividend, to receive out of the first of the fund (if there be sufficient for that purpose) a sum equal to the dividend he would have drawn, if he had claimed in time for the first dividend; and the same rule shall apply as to all subsequent dividends.

104.
First Dividend.
Trustee to make up and exhibit to Commissioners State of

Funds.

Commissioners to resolve as to payment of Dividend, &c.

And be it Enacted, That immediately on the expiration of Sir Months from the date of the Sequestration, the Trustee shall proceed to make up a state of the whole estate of the Bankrupt, of the funds recovered by him, and of the funds outstanding (specifying the cause why they have not been recovered), and of his intromissions, and generally of his management; and within Fourteen Days after the expiration of the said Six Months, the Commissioners shall meet and examine the said state, and ascertain whether the Trustee has lodged the monies recovered by him in Bank or not, and if he has failed to do so, they shall debit him with a sum at the rate of Twenty Pounds on every Hundred Pounds not so lodged, and so after that rate on any larger or smaller sum, being not less than Fifty Pounds; and they shall audit his accounts, and settle the amount of his commission, and authorize him to take credit for such commission in his accounts with the estate; and they shall certify, by a writing under their hands engrossed in the Sederunt Book, the balance due to or by the Trustee in his account with the estate as at the expiration of the said Six Months; and they shall declare whether any and what part of the net produce of the estate, after making a reasonable de- 40 duction for future expenses, shall be divided among the Creditors.

105.
Trustee to
make up List
of Creditors

And be it Enacted, That if a dividend is to be made, the Trustee shall also within the said Fourteen Days, examine the oaths and grounds

grounds of debt, and in writing reject or admit them, or require further evidence in support thereof; and in case he shall reject any claim, he shall in his deliverance state the grounds of such rejection; and he shall complete the list of the Creditors entitled to draw a dividend, specifying the amount of their debts, with interest thereon to the date of the Sequestration, and distinguishing whether they are ordinary Creditors, or preferable or contingent; and he shall make up a separate list of any Creditors whose claims he has rejected in whole or in part.

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entitled or not entitled to payment of Dividend.

And be it Enacted, That the Trustee shall give notice in the Edinburgh Gazette published next after expiration of the said Fourteen Days, of the time and place of the payment of the dividend, and also notify the same by letters put into the Post Office on or before the first lawful day after the said Fourteen Days, addressed to each of the 15 Creditors; and where he has rejected any claim, he shall notify the same to the claimant by letter as aforesaid, which shall also contain a copy of his deliverance, and specify the amount of dividend to which the rejected claimant would be entitled if not rejected, or as near to the amount thereof as circumstances will permit; and a Certificate by the Trustee, or an execution by a messenger or Sheriff officer that such letters have been put into the Post Office, shall be sufficient evidence thereof: And if any Creditor be dissatisfied with the decision of the Trustee, he may appeal by a short written note to the Lord Ordinary or to the Sheriff; but if no such note be lodged with and marked by the Bill Chamber or Sheriff Clerk (as the case may be) before the expiration of Thirty Days from the date of the publication in the Gazette of the said notice, the decision of the Trustee shall be final and conclusive, so far as regards that dividend; and in case the claim have been rejected, such decision shall be 30 without prejudice to any new claim being afterwards made in reference to future dividends, but which new claim shall not disturb prior dividends.

And to publish and send Notices of payment of Dividend.

106.

Creditors may appeal within a limited period.

And be it Enacted, That the Trustee shall, before the expiration of Eight Months from the date of the Sequestration, make up a scheme of division of the fund directed by the Commissioners to be divided, and apportion the same, according to their respective rights, among those Creditors whose claims have been sustained by him or by the Lord Ordinary or Sheriff, or who shall have appealed against his decision, and which scheme shall be patent to all concerned.

107. Trustee to make up Scheme of Division.

And be it Enacted, That on the said first lawful day after expiration of Eight Months from the date of Sequestration, and at the place appointed, the Trustee shall pay to the Creditors the dividends allotted to them respectively in terms of the said scheme; and he 23.

108. Dividends to be paid, and those disputed or claimed by contingent Creditors to be lodged in Bank.

shall lodge the dividends apportioned to those claims which are under appeal, but not finally determined, and the dividends effeiring to contingent Creditors, or other claimants not then entitled to uplift the same, in the Bank appointed by the Creditors, or, failing such appointment, in one of the said Banks in a separate account, or if the money be deposited in Bank he shall transfer it to a separate account, in name of himself and the Commissioners, to remain therein until the said appeals be disposed of, or the dividends are payable.

109. Second Dividend. Trustee to make up State, &c. and Commis-

sioners to

Dividend.

resolve as in case of first

And be it Enacted, That on the expiration of Ten Months from the date of Sequestration, the Trustee shall again make up a state as hereinbefore provided, which he shall within Fourteen Days after the expiration of the said Ten Months exhibit to the Commissioners, who shall meet and adjust the state, and perform the other acts and duties incumbent on them in manner before specified, and direct a second dividend to be paid, if there shall be funds to pay the same; and if the Commissioners shall direct a dividend to be paid, the Trustee shall also make up lists of the Creditors who are entitled and who are not entitled to payment of the dividend, and frame a scheme of division, and notify in the Gazette and by letters; and any Creditor may appeal, all as is hereinbefore provided for the first dividend.

110. Dividend to be paid.

And be it Enacted, That on the said first lawful day after the expiration of Twelve Months from the date of Sequestration, the Trustee shall make payment of the second dividend to those Creditors who are entitled to, and shall lodge the dividends disputed or not then payable, all as hereinbefore provided for the first dividend.

111.
Subsequent Dividends.
Same proceedings as in prior Dividends.

And be it Enacted, That the like procedure shall be followed out as to subsequent dividends at similar intervals of time thereafter, in order that a dividend may be made on the *first* lawful day after the expiration of every *Four* Months from the day of payment of the immediately preceding dividend, until the whole funds of the Bankrupt shall be divided.

112. Proceedings when Commissioners postpone the Dividend.

And be it Enacted, That if it shall appear to the Commissioners that a dividend ought to be postponed, they may do so till the recurrence of another stated period for making a dividend, and they shall authorize the Trustee to give a notice to that effect in the next Edinburgh Gazette; provided that notwithstanding such postponement the state of the funds shall be made up, and the accounts of the Trustee audited at the time and in the manner before directed; and circulars containing a copy or abstract of the said state shall

145

be sent by post to the Creditors, unless the Commissioners shall otherwise direct.

113. Winding up of Estate.

And be it Enacted, That if, on the lapse of Twelve Months from the date of Sequestration, it shall appear to the Trustee and Commissioners expedient to sell the heritable or moveable estates not disposed of, and any interest which the Creditors have in the outstanding debts and consigned dividends, they shall fix a day for holding a meeting of the Creditors to take the same into consideration; and the Trustee besides advertizing the same in the Edinburgh Gazette shall 10 Fourteen Days before the day appointed, send by post to each Creditor claiming on the estate a notice of the time and place of the meeting, with a valuation of the estate and effects, and a list of the outstanding debts and of the consigned dividends; and if Threefourths of the Creditors in value assembled at the meeting shall 15 decide in favour of a sale in whole or in lots, the Trustee shall sell the same by auction, after notice thereof published at least Once in the Edinburgh Gazette One Month previous to the sale, and in such other newspapers as the Creditors at the meeting shall appoint.

And be it Enacted, That at the meeting for election of Trustee, 20 the Bankrupt, or his friends, or, in case of his decease, his successors. and, in case of a Company, one or more of the partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if the majority of the Creditors in number, and Nine-tenths in value present at such meeting shall resolve that the offer and security shall be entertained for consideration, the Trustee shall forthwith advertise in the Edinburgh Gazette a notice that an offer of composition has been so made and entertained, and that it will be decided upon at the meeting to be held after the examination of the Bankrupt, and shall specify the hour, 30 day and place, and also transmit, by post, letters to each of the Creditors claiming on the estate, or mentioned in the Bankrupt's state of affairs, containing a notice of such resolution, and of the day and hour at which, and the place where the said meeting is to be held, and specifying the offer and security proposed, and giving an abstract of the state of the affairs and of the valuation of the the estate, so far as the same can be done to enable the Creditors to judge of the said offer and security.

And be it Enacted, That if, at the meeting held after the examination of the Bankrupt, a majority in number, and Ninetenths in value of the Creditors there assembled shall accept the said offer and security, a Bond of Caution for payment of the composition executed by the Bankrupt, or his successors (as the case

Discharge of Bankrupt on Composition.

Offer may be made at the Meeting for election of Trustee.

115. Offer, if entertained, to be disposed of at the meeting after the Bankrupt's examination.

may

may be), and the proposed Cautioner, shall be forthwith lodged in the hands of the Trustee; and the Trustee shall thereupon subscribe and transmit a report of the resolution of the meeting, with the said bond, to the Bill Chamber Clerk or Sheriff Clerk, in order that the approval of the Lord Ordinary or Sheriff (whichever may be selected by the Trustee) may be obtained thereto; and if the Lord Ordinary or the Sheriff, after hearing any objections by Creditors, shall find that the offer, with the security, has been duly made, and is reasonable, and has been assented to by a majority in number, and Nine-tenths in value, of all the Creditors assembled at the said meeting, he shall pronounce a deliverance approving thereof; provided that he shall hear any objection by opposing Creditors; and if he shall refuse to sustain the offer or reject the vote of any Creditor, he shall specify the grounds of refusal or rejection.

LordOrdinary or Sheriff to approve.

116. Offer on Composition may also be made at Meeting after Bankrupt's examination.

And be it Enacted, That in like manner at the meeting held after the examination of the Bankrupt, or at any subsequent meeting called for the purpose by the Trustee, with the consent of the Commissioners, the Bankrupt or his friends, or, in case of his decease, his successors, and, in the case of a Company, one or more of the partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if a majority in number and Four-fifths in value of the Creditors present shall resolve that the offer and security shall be entertained for consideration, the Trustee shall call another meeting, to be held at 25 a certain hour on a specified day, being not less than Twenty-one Days thereafter, and at a specified place; and shall, Fourteen Days at least before such other meeting, advertise a notice of the same in the Edinburgh Gazette, and send by post letters addressed to each of the Creditors who have claimed on the estate, or are mentioned 30 in the Bankrupt's state of affairs, which letters shall contain a notice of such resolution, and of the hour, day and place, and purpose of the meeting, and specify the offer and the security proposed, and give an abstract of the state of the affairs and valuation of the estate, so far as can be done, to enable the Creditors to judge of the 35 said offer; and if, at the meeting so called, a majority in number and Four-fifths in value of the Creditors present shall accept the said offer and security, a Bond of Caution shall be lodged, and a report made, and a deliverance pronounced, all in the same manner and to the same effect as is hereinbefore provided.

117. Bankrupt, on making De claration or obtain Discharge.

And be it Enacted, That on such deliverance being pronounced approving of the composition in either of the cases above specified, the Bankrupt shall make a declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or the Sheriff

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40

(as the case may be) that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, or made or promised any payment, or entered into any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor to the said offer and security; and if the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, or is by a lawful cause prevented from appearing before the Lord Ordinary or Sheriff, commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or 10 the Sheriff (as the case may be) on being satisfied with the said oath or declaration, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration, and shall declare the Sequestration to be at an end, and the Bank-15 rupt re-invested in his estate (reserving always the claims of the Creditors for the said composition against him and the Cautioner); and the Bond of Caution shall be recorded in the Books of the Court of Session or Sheriff Court, when the said deliverance is pronounced by the Sheriff, and an extract thereof, signed by the Sheriff Clerk, 20 shall forthwith be transmitted to the Clerk of the Bill Chamber, who shall present the same without enrolment to the Lord Ordinary, and the Lord Ordinary shall confirm the same, and the said deliverance of the Lord Ordinary, and the deliverance of the Sheriff when confirmed as aforesaid, shall operate as a complete discharge 25 and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and Her Majesty's other dominions.

And be it Enacted, That before the Lord Ordinary or the Sheriff shall pronounce the deliverance approving of the composition, the Commissioners shall audit the accounts of the Trustee, and ascertain the balance due to or by him, and fix the remuneration for his trouble, subject to the review of the Lord Ordinary or the Sheriff, if complained of by the Trustee, the Bankrupt, or any of the Creditors; and the expense attending the Sequestration and such remuneration shall be paid or provided for, to the satisfaction of the Trustee and Commissioners, before the said deliverance is pronounced.

118.
Trustee's
Accounts to
be audited,
before the
Composition
be approved
of.

And be it Enacted, That notwithstanding such offer of composition and proceedings consequent thereon, the Sequestration shall continue, and the Trustee shall proceed in the execution of his duty as if no such offer had been made, until the said deliverance by the Lord Ordinary be pronounced, when the Sequestration shall cease and be at an end, and the Trustee be exonered and discharged: Provided nevertheless, That the Trustee and his Cautioner shall be liable, on summary petition to the Lord Ordinary or Sheriff, by the 23.

119. Sequestration to go on, not-withstanding offer of Composition. On approval, Sequestration to cease.

Bankrupt or his Cautioner for the composition, to account for his intromissions and other acts as Trustee.

120.
Bankrupt and
Cautioner not
to be entitled
to object to
Claims, &c.

And be it Enacted, That neither the Bankrupt nor the Cautioner for the composition shall be entitled to object to any debt which the Bankrupt has given up in the state of his affairs as due by him, or admitted without question to be reckoned in the acceptance of the said offer of composition; nor to object to any preference or security held by any Creditor, unless in the offer of composition such preference or security, shall be stated as objected to, and notice in writing given to the Creditor holder thereof.

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121.
Claims against
Cautioner
limited in
certain cases
to Two Years.

And be it Enacted, That no person who has not produced an oath as a Creditor before the date of the said deliverance approving of the composition shall be entitled to make any demand against the Cautioner after the space of Two Years from the date of such deliverance, reserving to such Creditor his claim for the composition 15 against the Bankrupt and his estate.

122. If offer of Composition rejected, no other to be entertained, unless Ninetenths of Creditors ranked agree to do so.

And be it Enacted, That if an offer of composition have been made and rejected, or have become ineffectual, no other offer of composition shall be entertained unless Nine-tenths in number and value of all the Creditors ranked on the estate shall assent in writing 20 to such offer; which offer shall state the amount of composition and the terms of payment, and be subscribed by the Cautioner proposed, in which case a meeting shall be called by the Trustee for finally disposing of the same; and if, at the meeting so called, a majority in number and Nine-tenths in value of the Creditors present shall 25 accept the said offer and security, and the same shall be assented to by Nine-tenths in value of all the Creditors who have produced oaths as aforesaid, a Bond of Caution shall be lodged, and a report made, and deliverances pronounced, and the other proceedings shall take place and have effect in the same manner as is hereinbefore provided 30 for other offers of composition.

123. Discharge without Composition. Proceedings for this purpose.

And be it Enacted, That the Bankrupt may, at any time after the meeting held after his examination, petition the Lord Ordinary or the Sheriff to be finally discharged of all debts contracted by him before the date of the Sequestration, provided that every Creditor 35 who has produced his oath as aforesaid shall concur in the petition; and the Bankrupt may also present such petition on the expiration of Eight Months from the date of the Sequestration, provided a majority in number and Four-fifths in value of the Creditors who have produced oaths concur in the petition; and the Lord Ordinary 40 or the Sheriff (as the case may be) shall in either case order the petition to be intimated in the Edinburgh Gazette; and if, at the distance

149

distance of not less than Twenty-one Days from the publication of such intimation, and on evidence being produced of concurrence as aforesaid, there be no appearance to oppose the same, the Lord Ordinary or the Sheriff (as the case may be) shall pronounce a deliverance finding the Bankrupt entitled to a discharge; but if appearance be made by any of the Creditors, or by the Trustee, the Lord Ordinary or the Sheriff (as the case may be) shall judge of any objections against granting the discharge, and either find the Bankrupt entitled to the discharge, or refuse the same, or annex such conditions thereto as the justice of the case may require.

124.
Bankrupt to make a Declaration or Oath before obtaining Discharge.

And be it Enacted, That if the Bankrupt shall be found entitled to his discharge, he shall make a declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or Sheriff, that he has made a full and fair surrender of his estate, and 15 has not granted or promised any preference or security, nor made or promised any payment, nor entered into any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor to his discharge; and if the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, or is by lawful cause prevented from coming before the Lord Ordinary or Sheriff, commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or the Sheriff (as the case may be), on being satisfied with the said oath or declaration, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration; and when the said deliverance discharging the Bankrupt is pronounced by the Sheriff, an extract thereof, signed by the Sheriff Clerk, shall forthwith be transmitted to the Clerk of the Bill Chamber, who shall present the same, without enrolment, to the Lord Ordinary, and the Lord Ordinary shall confirm the same by a deliverance, and the said deliverance by the Lord Ordinary, or the said deliverance by the Sheriff, when confirmed as aforesaid, shall operate as a complete discharge and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and all Her Majesty's other dominions.

And be it Enacted, That all preferences, gratuities, securities and payments granted, made or promised, or other consideration not sanctioned by this Act, and all secret or collusive agreements and transactions, for concurring in, facilitating or obtaining the Bankrupt's discharge, either on or without an offer of composition, and whether the offer be accepted or not, or the discharge granted or not, shall be null and void; and if during the Sequestration any Creditor shall have obtained any such preference, gratuity, security or payment, or promise thereof, or entered into such secret or 23.

125. Preferences, Payments and collusive Agreements for Discharge.

collusive consideration or agreement or transaction, the Trustee shall be entitled to retain his dividend, and he or any Creditor ranked on the estate may present a petition to the Sheriff or to the Lord Ordinary, praying that such Creditor shall be found to have forfeited his debt, and be ordained to pay to the Trustee Double the amount of the preference, gratuity, security or payment, or other consideration given, made or promised; and if no cause be shown to the contrary, decree shall be pronounced accordingly; and the sums which in such case may be recovered shall, under deduction of the expenses of recovering the same, be distributed by the Trustee among the other Creditors under the Sequestration; and if the Sequestration shall have been closed, it shall be competent to any Creditor who shall not have received full payment of his debt to raise a multiplepoinding in name of the person who has obtained such preference, gratuity, security, payment or other consideration or promise as aforesaid; and on the value of the preference, gratuity, or security or amount of the sum paid or consideration obtained, being ascertained, double such value or amount, together with the amount of the debt of the colluding Creditor, shall be ordered to be consigned by him as in a process of multiplepoinding, and the same 20 being ascertained shall be divided among the Creditors who were ranked or were entitled to be ranked in the Sequestration, and have not received full payment of their debts, and who shall lodge claims in such multiplepoinding, according to their respective rights and interests: Provided that the said multiplepoinding shall be executed 25 in terms of law against the colluding Creditor, and notice thereof at the same time be inserted in the Edinburgh Gazette; and in the event that there shall be any surplus after paying the full debts of the Creditors, and defraying the expenses of the Sequestration or other proceeding, the same shall be paid into the account of un- 30 claimed dividends as hereinafter provided.

Bankrupt to forfeit privileges, if participant in giving such Preferences, &c.

And be it Enacted, That if the Bankrupt shall have been personally concerned in, or cognizant of the granting, giving or promising any preference, gratuity, security or payment, or other consideration, or in any secret or collusive agreement or transaction as aforesaid, he shall forfeit all right to a discharge, and all benefits under this Act; and such discharge, if granted, either on or without an offer of composition, shall be annulled; and the Trustee or any one or more of the Creditors may apply by petition to the Lord Ordinary to have such discharge annulled accordingly.

127.
Proceedings
if Bankrupt
do not make
a fair Surren
der.

And be it Enacted, That if it shall appear to a majority of the Creditors in number and value assembled at any meeting after the examination of the Bankrupt that he has not made a full and fair surrender of his estate, or that he has disposed of or concealed any part of his funds, to the prejudice of his Creditors, or that his Bankruptcy

128. Judicial pro-

Appeals, &c. against reso-

lutions of Creditors and

deliverances of Trustee, to the Lord

Ordinary or Sheriff.

ccedings.

Bankruptcy has been fraudulent, they may direct a meeting to be called for taking the subject into consideration on Fourteen Days' notice; and the said meeting, if they see cause, may authorize the Trustee to proceed against him in terms of law at the expense of the estate.

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And be it Enacted, That it shall be competent to appeal against the resolutions of the Creditors at meetings, either to the Lord Ordinary or the Sheriff, provided a note of appeal shall be lodged with and marked by one of the Clerks of the Bill Chamber within Fourteen Days after the date of the meeting at which the resolution objected to has been passed, or (as the case may be) in the hands of and marked by the Sheriff Clerk within the like period; and it shall in like manner be competent to appeal against any deliverance of the Trustee to the Lord Ordinary or the Sheriff, provided the note of appeal shall be lodged and marked as aforesaid within Thirty Days from the date of the said deliverance (except in the case of dividends as hereinbefore specified); and where any such appeal is made, or any petition or complaint is presented against the Trustee or Commissioners, or against any of the Creditors, the Lord Ordinary or the 20 Sheriff (as the case may be) shall appoint a copy thereof, and of his deliverance thereon, to be served on the Respondent or his mandatory or known agent, and appoint the Respondent to appear at a specified diet within such period as may be reasonable; and the Lord Ordinary or the Sheriff (as the case may be) shall at such diet hear parties vivâ voce, and the Lord Ordinary shall proceed to dispose of the case summarily, with or without a record, as he shall consider best; and the Sheriff may also, without a record, decide, provided he shall specify the facts, and assign the grounds of his judgment; but if he shall see cause, he may order minutes 30 to be lodged by the parties, containing their averments in fact and pleas in law, without argument, and may hold the same as a closed record, and proceed as in a summary cause; and in pronouncing his judgment, he shall assign his reasons; and it shall be competent to the Lord Ordinary or the Sheriff, where any resolution of a meeting of the Creditors is appealed against, to order a new meeting to be held, in order to reconsider the resolution.

And be it Enacted, That it shall be competent to bring under the review of the Inner House of the Court of Session any deliverance of the Sheriff (except where the same is declared not to be subject to review), provided a note of appeal shall be lodged with and marked by one of the Bill Chamber Clerks within *Twenty-one* Days from the date of such deliverance (except in the case of appeals against a deliverance declaring the election of a Trustee, which shall be lodged as hereinbefore provided), failing which the same shall be final; and

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23.

129. Review of Sheriff's Judgments. such reclaiming note shall be disposed of by the Inner House as speedily as the forms of Court will allow; and if it be lodged in time of vacation, the Lord Ordinary may hear parties and give judgment, subject to review of the Inner House; and it shall be competent for the Inner House or the Lord Ordinary to remit to the Sheriff with instructions.

130. Review of Lord Ordinary's Judgments.

And be it Enacted, That where any judgment of the Lord Ordinary is intended to be brought under review of the Inner House, the same shall be done by a reclaiming note in common form.

131.
Regulation by
Sheriff of
Interim Possession.

And be it Enacted, That during the dependence of appeals, or petitions and complaints, it shall be competent to the Sheriff to give such orders as may be necessary to regulate the interim possession and administration of the estate.

132. Appeals to House of Lords.

And be it Enacted, That if any appeal shall be made to the House of Lords, the Sequestration shall in all respects, not inconsistent with or injurious to the interests which may be affected by the appeal, proceed without interruption, and if necessary, the Lord Ordinary shall make such orders as may be necessary to regulate the interim possession and management of the estate, and which orders shall not be subject to appeal.

133.
Agents in
Court of Session may be
Agents in
causes under
this Act before
the Sheriff.

And be it Enacted, that it shall be lawful for all agents duly qualified to practise before the Court of Session to practise in all Sheriff Courts in so far as relates to any of the proceedings authorized by this Act to be carried on before the Sheriff, provided that they shall not be entitled to payment of any higher fees than those legally exigible in such Courts.

134.
Trustee to
make an annual Return
to Sheriff
Clerk, and he
to Bill Chamber Clerk.

And be it Enacted, That each Trustee shall on the Thirty-first day of October, if a lawful day, or on the first lawful day thereafter, yearly deliver free of expense to the Sheriff Clerk of the county a return, in the form of the Schedule marked (I.) hereunto annexed, of every Sequestration in which he is Trustee; and the Sheriff Clerk shall within Fourteen Days thereafter transmit, in the form of the said Schedule, to the Bill Chamber Clerk a return of all the Sequestrations depending in the sheriffdom whereof he is Clerk; and the Bill Chamber Clerk shall cause the returns so made to be regularly inserted in a volume to be kept at all times in his office, with an index thereto framed by the said Clerk, and which volume shall be patent to all concerned; and any Trustee who shall fail to make such return shall be removable from his office at the instance of any one Creditor, or subject to such censure as the Lord Ordinary may think suitable, and be found liable in expenses.

And

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135. Trustee's Discharge.

Proceedings for this purpose.

And be it Enacted, That after a final division of the funds, the Trustee shall call a meeting of the Creditors by an advertisement in the Edinburgh Gazette, to be held not sooner than Twenty-one Days after such publication, specifying the time, place and purpose of holding the meeting, and by letters addressed by post to every Creditor who has produced an oath as aforesaid, to consider as to an application for his discharge; and at such meeting he shall lay before the Creditors the sederunt book and accounts, with a list of unclaimed dividends; and the Creditors may then declare their opinion of his conduct as Trustee; and he may thereafter apply to the Lord Ordinary or the Sheriff, who, on advising the petition with the minutes of the meeting, and hearing any Creditor, may pronounce or refuse decree of exoneration and discharge; and when the said decree is pronounced by the Sheriff, an Extract thereof, signed by the Sheriff Clerk, shall forthwith be transmitted to the Bill Chamber Clerk, who shall present the same, without enrolment, to the Lord Ordinary, who shall confirm the same by a deliverance; and such decree, when so confirmed, shall be entered in the Register of Sequestrations, and the Bond of Caution for the Trustee delivered up.

And be it Enacted, That every Trustee in any Sequestration

awarded under this Act shall, before his discharge, transmit the sederunt book to the Bill Chamber Clerk, who shall thereupon intimate to the Trustee the bank in which the unclaimed dividends are to be deposited, and he shall name the banks in the following rotation; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company of Scotland, the Commercial Bank of Scotland, and the National Bank of Scotland; and the Trustee shall forthwith transfer the whole dividends not then claimed to the bank so intimated, to be there entered in an account to be kept under the title of "Account of unclaimed Dividends;" and a book or books shall be kept in the office of the Bill Chamber Clerk, showing such rotation, and containing a list, with the names arranged alphabetically, of all the Creditors entitled to such unclaimed dividends, and in what bank deposited, which shall be patent to all persons; and after the discharge of the Trustee, it shall be competent for any person producing evidence of his right, to apply to the Lord Ordinary for authority to receive such dividends, and, on the Lord Ordinary being satisfied of the claimant's right, a warrant shall be granted for payment of such dividend, and upon such warrant the bank shall pay the same; provided that the claimant shall not be entitled to interest on such dividend, but such interest shall go into a general fund, of which an account shall be kept by such bank, to be called "The Interest Account of Unclaimed Dividends," and which fund shall be applied in such manner as shall be regulated by any Act of Parliament; and if at the end of Twenty-

136. All Trustees to lodge unclaimed Dividends, &c. in Bank.

Claimants showing right to apply to Lord Ordinary.

Interest Account of Unclaimed Dividends.

five

five Years from the date of closing any Sequestration there shall remain in the bank any unclaimed dividends belonging to the estate, the same shall be vested in Government stock, and the dividends thereon shall be regularly accumulated for the purpose of forming a fund for defraying the expense of proceedings in Bankruptcy, or otherwise as Parliament shall hereafter direct; and the said Banks shall once yearly at least balance the said accounts, and accumulate the interest with the principal sum, so that both shall thereafter bear interest as principal; and if any such Bank fail to do so, such Bank shall be liable to account as if such money had been so accumulated.

137. Surplus to be paid to Bankrupt.

And be it Enacted, That any surplus of the Bankrupt's estate and effects that may remain after payment of his debts, with interest, and the charges of recovering and distributing the estate, shall be paid to the Bankrupt or to his successors or assignees.

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138. Provisions as to Perjury.

And be it Enacted, That if any person shall be guilty of wilful falsehood in any oath or affirmation made in pursuance of this Act, he shall be liable to a prosecution either at the instance of Her Majesty's Advocate, or at the instance of the Trustee, with the concurrence of Her Majesty's Advocate, and provided, in the latter case, the prosecution shall be authorized by a majority in value of the Creditors present at a meeting to be called for the purpose; and such person shall on conviction, besides the awarded punishment, forfeit to the Trustee, for behoof of the Creditors, his whole right, claim and interest in or upon the sequestrated estate; and the same shall be distributed, either under the Sequestration, or if it be closed, under a process of multiplepoinding as is hereinbefore provided.

139. Deliverances, &c. may be partly print-ed; and citations to be without Witnesses.

And be it Enacted, That all deliverances, bonds, schedules and executions under this Act may be either printed or in writing, or partly both; and service or citation may be by a competent Officer without witnesses.

140. No Fee Fund Dues exigible.

And be it Enacted, That no payment shall be exacted as a contribution towards the Fee Fund at presenting any appeals, petitions or complaints, reclaiming notes, or any papers, under this Act: Provided, 35 that in place of the whole fees heretofore exigible upon proceedings in Sequestrations, there shall be payable upon all proceedings under this Act the fees which are set forth in the Schedule marked (K.) hereunto annexed, and no others; and the fees payable to the Bill Chamber Clerks shall be payable to the Fee Fund.

Fees payable.

And be it Enacted, That the persons discharging the duties of Clerks in the Bill Chamber, shall, in consideration of the additional trouble

141. Additional allowance to the Bill Chamber Clerks.

trouble imposed upon them, be entitled to an addition to their present allowance, the amount whereof, payable out of the said fees, and not exceeding in all One hundred Pounds per annum, shall be settled by the Commissioners of Her Majesty's Treasury, and shall 5 be paid to the Clerks or to the Clerk discharging the said duties.

And be it Enacted, That from and after the Fourteenth day of July One thousand eight hundred and Thirty-nine, the Keeper of the Edinburgh Gazette shall on each day of publication furnish a copy thereof to the Keeper of Edictal Citations, and to the Bill 10 Chamber Clerk, who shall keep the same regularly filed, and make the said Gazettes on all occasions patent to the lieges at office hours, on payment of a fee of Sixpence, and no more.

Gazette Keeper to furnish copies of Gazette.

And be it Enacted, That no advertisement inserted in the London Gazette or in the Edinburgh Gazette by virtue of this Act, or the 15 said recited Act of the fifty-fourth year of the reign of his Majesty King George the Third, intituled, "An Act for rendering the Payment of Creditors more equal and expeditious in Scotland," or an Act of the sixth and seventh year of his late Majesty, intituled, "An Act for Regulating the Process of Cessio Bonorum in the Court of 20 Session, and for extending the Jurisdiction of Sheriffs in Scotland to such cases," shall be charged by the Keepers of the said Gazettes for publication therein, at a higher price, nor shall a higher price be paid for such publication, than the sums specified in the Schedule (L.) hereunto annexed.

143. Charges on Advertisements under this Act and the Act of 54 Geo. 3, c. 137. and 6 & 7 Wm. 4, c. 56, regulated.

And be it Enacted, That from and after the commencement of this Act, all conveyances, assignations, instruments, discharges, writings or deeds, relating solely to the estate belonging to any Bankrupt against whom Sequestration has been or may be awarded either under this or any former Act, and which estate, after the execution 30 of such conveyances, assignations, instruments, discharges, writings or deeds, shall be and remain the property of such Bankrupt, for the benefit of his Creditors, or the Trustee appointed or chosen under or by virtue of such sequestration; and all discharges to the said Bankrupt, and all deeds, assignations, instruments or writings 35 for re-investing the said Bankrupt in the estate, and all powers of attorney, commissions, factories, oaths, affidavits, articles of roup or sale, submissions, decrees arbitral, and all other instruments and writings whatsoever, relating solely to the estate of any Bankrupt sequestrated as aforesaid, and all other deeds or writings forming a 40 part of the proceedings ordered under such Sequestration, and all notices or advertisements inserted in the London and Edinburgh Gazettes relative thereto, shall be exempt from all stamp-duties or other Government duty, and no rates or duties imposed by any Sta-

144. Conveyances, Deeds, &c. relating to Estates of Bankrupts, not liable to anv Stamp-

Gazette Advertisements

Auction not liable to

tutes upon the sale of estates or effects by auction shall be exigible on the sale of any estates or effects by auction under the authority of this Act: Provided always, That no exemption from auction-duty shall be allowed on the sale by auction under this Act of any estate and effects, unless the auctioneer who shall conduct such sale shall, at the time of passing his account thereof, produce to the Officer of Excise a catalogue signed and certified by the Trustee by whose order such sale shall have been made, in manner and form required by the laws of the Excise.

145. Acts of Sederunt may be

And be it Enacted, That it shall be lawful for the Judges of the Court of Session, by an Act or Acts of Sederunt, from time to time to apportion the duties to be performed by the officers in the said Court, or in the Sheriff Courts, and to regulate procedure in relation to this Act, in so far as consistent therewith, and to establish a table of fees to be allowed to agents, both in the Court of Session and Sheriff Courts, for conducting the proceedings, which Act or Acts of Sederunt shall within *One Month* after the making thereof be transmitted by the Lord President of the Court of Session to the Secretary of State for the Home Department, that the same may be laid before both Houses of Parliament.

146. Act may be repealed or amended.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULES

SCHEDULES

REFERRED TO IN THIS ACT.

SCHEDULE (A.)

REGISTER OF SEQUESTRATIONS.

Division of the Court.	Date of First Deliverance.	Name and Designa- tion of Debtor.	County of Debtor's Residence or Business.	Name and Designation of Petitioning or Concurring Creditor.	Date of awarding. (If recalled, Entry to be in this Column.)	Time and Place for electing Interim Factor.	Interim Factor, Name and Designa- tion.	Time and Place for electing Trustee.	Trustee's Name and Designa- tion.	Commission ers' Names and Designation.	Time for lodging Claims for Dividend.

SCHEDULE (B.)

ABBREVIATE FOR THE REGISTER OF INHIBITIONS.

PETITION for Sequestration of A. B. [designation.] Date of first deliverance day of

(signed)

C. D. (If an Agent, state so.)

SCHEDULE (C.)

Notice for the Gazettes.

THE Estates of A. B. [designation] were sequestrated on

day of

First deliverance dated the

o'clock on

The Meeting to elect the Interim Factor is to be held at within day of the

[specify hour, day of week, month, year and place of meeting]. And the Meeting to elect the Trustee and Commissioners, is to be held at o'clock, on the

day of within

[specify hour, day of week, month, year and place of meeting]. A composition may be offered at this latter meeting; and to entitle Creditors to the first dividend, their oaths and grounds of debt must be lodged on or before the [insert date].

(signed) P. Q., Agent. [specify place of business.]

Take Notice, That all future Advertisements relating to this Sequestration will be published in the Edinburgh Gazette alone.

SCHEDULE (D.)

FORM OF BOND OF CAUTION FOR AN INTERIM FACTOR OR TRUSTEE.

I, A. B. [designation], having been appointed Trustee [or Interim Factor] on the sequestrated estate of C.D. [designation]; and I, E. F. [designation] as Cautioner, Surety and full Debtor for and with the said A. B., hereby bind and oblige ourselves, conjunctly and severally, our heirs and executors, that I, the said A. B., shall faithfully discharge all the duties which by law attach to the said office of Trustee [or Interim Factor], and fully account for my whole intromissions with the said estate, and make payment of any balance due by me to the Creditors on the said estate, or Trustee elected by them to 23. succeed succeed me; declaring that this Bond shall not be in any way affected, nor shall I, the said E. F., be liberated, by any omission, negligence or want of diligence on the part of the Creditors or Commissioners on the said estate. [In case the caution has been limited by the Creditors, the following clause will be here inserted: And declaring further, that this Bond, so far as concerns me, the said E. F., shall not bind me or my foresaids to a greater extent than the sum of [here insert sum in writing], to which my obligation before written is hereby limited.] In witness whereof, this Bond (so far as not printed) written and filled up by [here shall be inserted in writing a testing clause in legal form.]

O. T., Witness.

(signed)

A. B. E. F.

L. F., Witness.

SCHEDULE (E.)

ACT AND WARRANT TO THE INTERIM FACTOR.

THE Sheriff of the County of [insert County], has confirmed, and hereby confirms A. B. [designation], Interim Factor on the Estates of C. D. [designation], and the said C. D. is hereby invested with all the powers conferred on Interim Factors by an Act passed in the year of the reign of Her Majesty Queen Victoria, intituled [insert the title of this Act.] [Signed by Sheriff Clerk.]

SCHEDULE (F.)

ACT AND WARRANT OF CONFIRMATION IN FAVOUR OF THE TRUSTEE.

THE Sheriff of the County of [insert County], has confirmed, and hereby confirms A. B. [designation], Trustee on the sequestrated Estate of C. D. [designation], and the whole of the estates and effects, heritable and moveable, and real and personal, wherever situated, of the said C. D. are transferred and belong to A. B., as Trustee for behoof of the Creditors of the said C. D., in terms of an Act of the year of the reign of Her Majesty Queen Victoria, intituled [here insert the title of this Act]; and the said A. B. has, as Trustee aforesaid, in terms of the said Act, full right and power to sue for and recover all estates, effects, debts and money belonging or due to the said C. D.

(signed)

C. D., Sheriff Clerk.

SCHEDULE (G.)

FOR THE RECORD OF ABBREVIATES OF ADJUDICATIONS.

THE whole estates and effects, heritable and moveable, and real and personal, wherever situated, of C. D. [designation], are transferred and belong to A. B. [designation], as Trustee on his sequestrated estate, in terms of an Act of the year of the reign of Her Majesty Queen VICTORIA, intituled [here insert the title of this Act].

[Signed by the Trustee or his Agent.]

SCHEDULE (H.)

FOR THE GAZETTE.

Sequestration of C. D. [designation.]

A. B. [designation], has been elected Trustee on the estate, and E. F. and G. [designations], have been elected Commissioners. The Examination of the Bankrupt will take place in the Sheriff Court House, or other Place of Examination to be specified, on [day of week] the [specify the date] of [specify the month] next, at [specify hour]. The Creditors will meet in [specify the future time by day, date and month] at [specify hour] o'clock. [If any offer of composition has been entertained at the meeting for election of Trustee, intimate this as provided by the Act.]

[Signed by the Trustee.]



				<u></u>		·	
	ANNUAL RETURN by each TRUSTEE on the Thirty-first day of October; and by each Sheriff Clerk within Fourteen Days thereafter.	AMOUNT OF EXPENSES.	Miscellaneous.				
			Law Expenses.				
			Trustee's Commission.				
		Dividend paid or unpaid.					
		Amount of Compo-	payable, and Names and Designations of Cautioners.	·	·		
			Composition or without Composition.				
(I.)		Allowance	to Bankrupt.				
SCHEDULE (I.)		Amount	of Debts.				
SCHE		Amount of	Funds realized.	·			
			as in the Bankrupt's State.				
,		Names and Designation	of Commissioners.	·			
		•	of Interim Factor and Trustee.				
		tion	or Liberation.				
		Date	of First or Deliverance. Liberation.				
		Name and Designation	of Bankrupt.				
•23	3.			G	3		

23.

SCHEDULE (K.)

TABLE OF FEES PAYABLE UNDER THIS ACT.

I.—In the Court of Session.

(1.) To the Bill Chamber Clerk:	£.	s.	d.
On every deliverance awarding Sequestration, granting discharge to the Bank-			
rupt, approving of composition, or exonerating the Trustee, and entering the			
same in the office minute book	_	5	_
On every other deliverance (not being merely an order for papers, revisals, or			
such like), and entering same in the office minute book	-	2	6
For entering the first deliverance and the deliverance awarding Sequestration			
in the register of Sequestrations, each (if separate)	-	1	_
For entering the name and designation of the Interim Factor	-	1	_
For entering the name and designation of the Trustee and Commissioners -	-	1	-
For every borrowing of the proceedings or any part thereof, and for every			
returning thereof, each	-	1	_
For every certified copy or extract from said register of Sequestrations, or of			
any part of the proceedings, per sheet	-	1	-
For inspection of the list of unclaimed dividends, and certifying any extract		_	
made therefrom	-	1	_
On the lodging of the Trustee's accounts	-	1	_
(2.) To the Keeper of the General Minute Book:			
For entering the first deliverance and deliverance awarding Sequestration,			
adjudication and discharge, and approval of composition, each	_	2	6
For entering any other deliverance or intimation	_	1	_
(3.) To the Extractors:			
,			
For every extract made of the proceedings, or of the deliverance of the Lord		_	
Ordinary or Inner House, per sheet	_	1	_
II.—To the Keepers of the Records.	ı		
		_	
For entering any schedule	_	1	_
For entering on the margin of any record the recall of Sequestration, or discharge in favour of the Bankrupt		1	_
For access to and liberty to make excerpts of proceedings under this Act from	_	•	_
any register or record appointed herein to be kept, or in which entries are			
herein appointed to be made, a fee of One shilling for each year of the record			
inspected, but not exceeding in all for any One record	_	10	_
For extracts or certified copies therefrom, per sheet	_	1	_
For collating and certifying excerpts therefrom, per sheet	_	_	6
2 or containing and containing checkpes and containing per and containing			·
III.—SHERIFF COURT.			
(1.) To the Sheriff Clerk:			
On every deliverance pronounced by the Sheriff, declaring the election of an			
Interim Factor or a Trustee, appointing diets of examination, granting a			
discharge to the Bankrupt, approving of composition, or exonerating the			
Trustee	_	2	6
For every other deliverance, not being merely an order for papers or revisals -	_	1	•
For every transmission to or by him of the proceedings			
	_	1	-

 \mathbf{For}

/// s. d

	t.	s.	d.
For entering the first deliverance, and the deliverance awarding sequestration			
in the register, each (if separate)	-	_	6
For entering the name and designation of the Interim Factor in the register -	-	_	6
For entering the name and designation of the Trustee and Commissioner in			
the register	_	- (6
For issuing, receiving back and examining bond of caution for an Interim	l		
Factor or Trustee, to be paid at the issuing of bond	-	2	6
For oath of the Bankrupt, and examinations of him or others, per sheet -	-	1	-
For every warrant of apprehension or citation of the Bankrupt or others, or	ĺ		
commission to take examination	-	2	6
For every certified copy or extract of the proceedings before the Sheriff, or of			
any deliverance pronounced by him, per sheet	-	1	_
For every annual report of the depending Sequestrations, for each Sequestra-			
tion, to be paid by the Trustee	-	_	6
For every borrowing of all or any part of the proceedings	-	-	6
(2.) To the Sheriff attending any meeting of Creditors or examination, for			
each such meeting or diet of examination, not being on the same day -	1	1	_
each such meeting or diet of examination, not being on the same day -	1	4	_

SCHEDULE (L.)

TABLE of PRICES payable for Advertisements in the London or Edinburgh Gazette.

For six lines and under	-	_	-	_	6	_
For more than six lines and not exceeding ten lines	-	-	-	_	7	6
For more than ten lines and not exceeding fifteen lines	-	-	-	- 1	10 ·	6
For more than fifteen lines and not exceeding twenty lines -	-	-	-	- 1	14	6
For more than twenty lines and not exceeding twenty-five lines For more than twenty-five lines and not more than thirty lines	-	-	_	- 1	17	6
For more than twenty-five lines and not more than thirty lines	-	-	-	1	_	6
•				ł		

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INDEX

INDEX

of the foregoing BILL.

CL.
1. PREAMBLE, and Enactment that all depending Sequestrations be proceeded in and
brought to a conclusion in terms of 54 Geo. III. c. 137.
2. Commencement of New Act to be July 1839. All Sequestrations to be thereafter
awarded, proceeded in, and brought to a conclusion under the provisions thereof.
3. Construction of words in this Act. Act to be construed beneficially for the ends
thereof.
4.—Sequestration. The Estates of any Debtor or Company, subject to the laws
of Scotland, may be sequestrated with their own consent, with concurrence of Cre-
ditors to a certain extent.
5. ——— of deceased Debtors.
6. ——— of certain descriptions of Debtors, without their consent.
7. ———— of a Company, without its consent.
8. — of a Debtor remaining for a certain time in the Sanctuary, without his
consent.
9. Petition, what Creditors entitled to. Time of presenting.
10. Oath of verity by Creditors.
11. Oath of Credulity. When made.
12. Accounts and vouchers necessary to prove Debt must be produced.
13. Application for Sequestration must be by petition to Lord Ordinary. Where without
Debtor's consent, oath to certain facts must be made and produced.
14. Sequestration applied for by the Debtor, awarded, and personal protection granted.
Meetings for the election of Interim Factor and Trustee to be appointed. Process
of Sequestration to be remitted to Sheriff.
15. PROCEDURE in the case of a deceased Debtor. Judicial Factor may be appointed
ad interim.
16. ——— on Petition for Sequestration of the Estates of Debtors, without their
consent.
17. ———— of Companies, without their consent.
18. Lord Ordinary may grant warrant for Debtor's liberation from Prison.
19. Effect of such Warrant.
20. Bill-Chamber-Clerks to be Clerks to Sequestrations, and to keep a Register.
21. Abbreviate of Sequestration to be Recorded in General Register of Inhibitions.
The Awarding Sequestration to be Advertised in the Edinburgh and London
Gazettes.
22. The Deliverance Awarding Sequestration not to be subject to review, but may be
recalled.
23. No recall competent after a certain time, unless nine-tenths of the Creditors
apply.
24. Other Creditors may be sisted in place of petitioning or concurring Creditor. Debtor's
Death not to stop proceedings.
25. DATE of first Deliverance on Petition to be held the date of the Sequestration.
26. Sequestration to be equivalent to Notour Bankruptcy. Date of Registration of
Sasine, and of Intimation of an Assignation, to be held the date of the Sasine or
or Assignation under this Act.
27. Petitioning, concurring in Petition, or claiming in Sequestration to interrupt Pre-
scription, and bar any Statute of Limitations in England or Ireland.
23. H 28. Sequestration

- CL.
- 28. Sequestration to remain in Court of Session notwithstanding remit to Sheriff. Certified copy of Petition, &c., to be transmitted to the Sheriff-Clerk of the County where the Meetings are to be held. Jurisdiction of Sheriff. Sheriff-Clerk to keep Register.
- 29. All deliverances of the Court of Session and Sheriff, as well as extracts thereof to be evidence, and Warrants for all Diligence and execution competent.
- 30. The claim by the Agent and others for expenses, &c., restricted to the Sequestrated Estate, and against employer.
- 31. Mandatories for Creditors may vote.
- 32. Persons acquiring debts after Sequestration not to vote in election of Interim Factor or Trustee.
- 33. CLAIMS for Interest. Rules as to deducting Interest on Debts not payable; and as to Discounts.
- 34. Rules as to Voting, where a Creditor holds a Security over the Bankrupt's Estate.
- 35. where a Creditor has obligants liable in relief to the Bank-rupt.
- 36. on the Estate of a Partner for a Company Debt.
- 37. Right of Trustee and Creditors to require Assignation to Securities or Obligations valued with a view to Voting. Provision for change on value of such Securities.
- 38. Valuation of any Security held over any part of the Estate of the Bankrupt, prior to drawing Dividend,—Creditor ranked for the balance. Trustee may require Assignation to such Security on payment of estimated value.
- 39. The value of a Creditor's claim on the Estate of a Company deducted before he is ranked on the Estate of a Partner of the Company.
- 40. Contingent Creditors.
- 41. Annuity Creditors.
- 42. Cautioners for Annuities.
- 43. Claiming or acting in the Sequestration not to discharge co-obligant.
- 44. Oath not to supersede legal evidence.
- 45. Majorities of votes—how ascertained.
- 46. PROCEEDINGS at meeting for election of INTERIM FACTOR and TRUSTEE. Sheriff and Sheriff-Clerk to attend if required.
- 47. If Sheriff present, all objections to the votes or candidates must be stated at the meeting, and forthwith disposed of, or avizandum made therewith by Sheriff. Sheriff to declare person who is duly elected Interim Factor or Trustee.
- 48. Where the Sheriff is not present at the meeting for election of Interim Factor or Trustee.
- 49. Creditors to fix amount of caution to be found by Interim Factor or Trustee. Bond to be lodged with Sheriff-Clerk.
- 50. Sheriff to confirm the election of person chosen Interim Factor or Trustee. Acr and Warrant issued as their title.
- 51. Sheriff-Clerk to act as Interim Factor if the Creditors fail to elect one. Sheriff may seal up Bankrupts' books and papers, and lock up his shop, &c. till Factor confirmed.
- 52. Duties of Interim Factor. Must lodge money in Bank.
- 53. Bankrupt to make up state of his affairs, and give information and assistance to Interim Factor and Trustee.
- 54. At meeting to elect Trustee, Interim Factor to exhibit States, and be remunerated.
- 55. Proceedings in case of Appeal to Court of Session againt the Sheriff's judgment, declaring the person elected Interim Factor or Trustee. Expenses how to be paid.
- 56. Such Appeal not to stop Sequestration. Interim Factor to continue to act and be remunerated.
- 57. Three Commissioners (who may be either Creditors or Mandatories for Creditors,) to be elected at the same meeting as the Trustee, to advise with him, &c.

58. Duties

165

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- 58. Duties of Commissioners.
- 59. Offer of Composition may be made by Bankrupt at meeting for election of Trustee, and personal protection renewed.
- 60. Allowance may be made to Bankrupt.
- 61. Trustee's confirmation to be recorded in Register of Adjudications.
- 62. TRUSTEE'S DUTIES. Money to be lodged in Bank.
- 63. Penalty on Interim Factor or Trustee for not duly lodging money in Bank.
- 64. Trustee to keep a Sederunt Book and regular accounts.
- 65. Interim Factor, Sheriff-Clerk, Trustee and Commissioners amenable to Lord Ordinary and Sheriff.
- 66. Examination of Bankhupt. The Sheriff, on Trustee's application, to appoint the time. The Trustee to advertise the time and place for holding a (third) general meeting of Creditors.
- 67. Sheriff may grant warrant to apprehend the Bankrupt.
- 68. Lord Ordinary may grant warrant for same purpose, when the Bankrupt is in England or Ireland.
- 69. The Sheriff may, on application of Trustee, order an examination of the Bankrupt's wife and others, and grant warrant for apprehending them for examination.
- 70. The Bankrupt and others must answer all lawful questions. Parties entitled to expenses as witnesses.
- 71. Effect of refusal to answer, &c.
- 72. Latent partners must disclose themselves.
- 73. Bankrupt may correct the state of his affairs, and must make oath at the close of the examination. Form of Oath.
- 74. Trustee must make a REPORT to third general meeting of Creditors. Meeting to give directions for the management, recovery and sale of the estate.
- 75. Special meetings of Creditors may be called.
- 76. Meetings must be advertised 14 days previously.
- 77. To what Creditors Notices through post-office need not be sent.
- 78. REMOVAL or RESIGNATION of Trustee.
- 79. THE MOVEABLE ESTATE vested in the Trustee.
- 80. THE HERITABLE ESTATE vested in the Trustee, with all right, title and interest which was then in the Bankrupt. Limitations and qualifications of the Trustee's right.
- 81. ESTATES in England, Ireland and other British dominions.
- 82. Acquisitions of Bankrupt after the Sequestration to belong to the Creditors.
- 83. SEQUESTRATION equivalent to an adjudication in competition.
- 84. _____ to arrestment and poinding. Diligence sixty days before Sequestration, or after it, ineffectual. Expenses of diligence.
- 85. Preferences over the estate of a deceased Debtor null in certain cases.
- 86. Acts and payments by Bankrupt after Sequestration null. Exception.
- 87. Subjects improperly included in Sequestration may be struck out.
- 88. Trustee may complete feudal titles, or grant such rights as Bankrupt could do.
- 89. Trustee may get property transferred to him, although heir of Bankrupt has made up titles. Decree to be recorded in Register of Adjudications.
- 90. Circumstances in which Heritable Creditors are not to interfere with sale by Trustee.
- 91. Public sale of heritable subjects. Effect on securities.
- 92. Heritable Creditor may allow Trustee to sell.
- 93. Heritable Creditor, with power to sell, may sell in terms of his bond, notwithstanding the Sequestration.
- 94. Judicial sale. Disposal of price.
- 95. How far Heritable Creditors are liable for expenses.
- 96. Effect of Sequestration on Heritable Creditor's right to poind the ground.
- 97. Landlord's right of Hypothec reserved.
- 98. The Interim Factor or Trustee may be authorized to receive and open post letters addressed to the Bankrupt.

23. gg. Trustee,

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- 99. Trustee, with consent of Commissioners, may enter into submissions and compromises.
- 100. Creditor may purchase any part of the sequestrated estate, NOT the Interim Factor, Trustee, or Commissioners.
- 101. Realized fund to be divided among those who were Creditors of the Bankrupt at the time of his Sequestration.
- 102. Dividends. Times at which they may be made.
- 103. Time within which Creditors must produce oaths, &c., to entitle them to receive payment of dividends.
- 104. Trustee to make up state of Bankrupt's affairs, and accounts of his intromissions.

 State to be examined, and Trustee's accounts docqueted by Commissioners, within
 Fourteen days after the expiration of Six months from the date of the Sequestration.

 First Dividend may be declared or postponed.
- 105. If a dividend is to be made, Trustee to make up lists of Creditors entitled or not entitled thereto.
- 106. Trustee to publish and transmit Notices of dividend, and of his judgment on the claims. Creditors may appeal against Trustee's deliverance within a limited period.
- 107. Trustee to make up scheme of division.
- 108. FIRST DIVIDEND may be paid first lawful day after the expiration of Eight months from the date of the Sequestration. Dividends not upliftable, or on claims under appeal, to be deposited in Bank in name of Trustee and Commissioners.
- 109. Second dividend, preparation for.
- 110. Paid on the first lawful day after the expiration of Twelve months from the date of the Sequestration.
- 111. Subsequent Dividends.
- 112. Proceedings when Commissioners postpone the dividend.
- 113. Estate may be wound up on expiration of Twelve months from date of Sequestration, by a sale of whole outstanding funds and claims.
- 114. Discharge of Bankrupt on Composition. Offer may be made at meeting for election of Trustee. If entertained to be advertised and intimated.
- 115. Offer, if entertained, to be disposed of at the meeting after the Bankrupt's examination. Caution to be found, and the Trustee to transmit report to Bill Chamber Clerk, or Sheriff-Clerk, and the Lord Ordinary or Sheriff, after hearing parties, and being satisfied that the requisite consents had been obtained to approve of Composition.
- 116. Offer of Composition may be made at the meeting to be held after the Bankrupt's examination, or at any other meeting specially called for the purpose. If entertained, another meeting to be called to decide thereon; and, if accepted, caution to be found, and a report to be made by the Trustee, and the Composition approved of by the Lord Ordinary or Sheriff.
- 117. The Bankrupt, on making an oath or declaration, to obtain his discharge.
- 118. The Trustee's accounts to be audited, and provision made for expenses before approval of the Composition.
- 119. Sequestration to go on, notwithstanding offer of Composition. On approval, Sequestration to cease.
- 120. Bankrupt and Cautioner not entitled to dispute claims ranked unless objected to at the time of making offer of Composition.
- 121. Cautioner not liable for Composition on claims not produced before approval of Composition, or within Two years thereafter.
- 122. If offer of Composition rejected, no other to be entertained, unless nine-tenths of Creditors ranked agree to do so.
- 123. Bankrupt's Discharge without Composition. Proceedings for this purpose.
- 124. Bankrupt to make a declaration or oath before obtaining Discharge.
- 125. Preferences, payments and collusive agreements for discharge on Composition or otherwise, null.

126. Bankrupt

167

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- 126. Bankrupt to forfeit privileges if participant in giving such preferences, &c.
- 127. If Bankrupt do not make a fair surrender, &c., to be punished.
- 128. Judicial proceedings.—Appeals, &c., against resolutions of Creditors, Trustee and Commissioners may be made to the Lord Ordinary or the Sheriff.
- 129. Sheriff's judgment subject to review of Court of Session.
- 130. Lord Ordinary's judgment subject to review of Inner-House.
- 131. Sheriff may regulate interim possession.
- 132. Appeals to House of Lords competent, except respecting orders to regulate interim possession.
- 133. Agents in Court of Session may be agents in causes under this Act before the Sheriff.
- 134. Trustee to make an Annual Return to Sheriff-Clerk, and he to Bill Chamber-Clerk.
- 135. Trustee's Discharge. Proceedings for that purpose.
- 136. Trustee to lodge unclaimed Dividends in Bank. Account to be kept by Bank of Unclaimed Dividends. Claimants having right to Dividends so lodged may apply to Lord Ordinary for warrant to uplift the same, without interest. Bank to keep account of interest on Unclaimed Dividends. Dividends unclaimed for Twenty-five years, and the amount of the interest account to be applied to public purposes.
- 137. Surplus of the Estate to be paid to Bankrupt.
- 138. Provisions as to Perjury.
- ¹39. Deliverances, &c., may be partly printed; and service or citation may be by competent officer without witnesses.
- 140. No Fee-Fund Dues exigible. Fees payable.
- 141. Gazette Keeper to furnish copy of Gazette to Keeper of Edictal Citations.
- 142. Charges on Advertisements under this Act and the Act of 54 Geo. III. c. 137, and 6 & 7 Will. IV. c. 50, regulated.
- 143. Conveyances, Deeds, &c., relating to Estates of Bankrupts not liable to any stamp duty. Gazette Advertisements, and Sales by Auction not liable to duty.
- 144. Acts of Sederunt may be made.
- 145. Act may be repealed or amended.

Bankrupts' Estates (Scotland).

BILI

For Regulating the Sequestration of the Estates of Bankrupts in Scotland.

(Prepared and brought in by The Lord Advocate and Mr. Attorney General.)

Ordered by The House of Commons, to be Printed, 14 February 1839.

Price 7 t d.

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BILLL

[AS AMENDED IN THE COMMITTEE]

For Regulating the Sequestration of the Estates of Bankrupts in Scotland.

[Note.—The Clauses (A.) & (B.) printed in *Italics* are proposed to be inserted in the Committee.]

lating the Sequestration of Estates of Bankrupts in Scotland; BE it Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT all Sequestrations depending at the commencement of this Act shall be proceeded in, and brought to a conclusion under the provisions of an Act passed in the fifty-fourth year of the reign of his Majesty King George the Third, intituled, "An Act for rendering the Payment of Creditors more equal and expeditious in Scotland," and not under this Act.

Preamble.

Depending Sequestrations to be proceeded in under 54 Geo. 3, c. 137.

And be it Enacted, That this Act shall commence and take effect on and after the Fourteenth day of July One thousand eight hundred and Thirty-nine; and, on and after that day, all Sequestrations shall be awarded in virtue of and in terms of this Act, and of no other Act, and such Sequestrations shall be proceeded in and brought to a conclusion under the provisions of this Act.

2. Commencement of this

And be it Enacted, That in construing this Act the word "Lord Ordinary" shall mean the Lord Ordinary officiating on the Bills in the Court of Session; that the word "Commissioners" shall mean a majority of the Commissioners hereinafter mentioned; that the word "Estates" shall include every kind of property, heritable or moveable, real or personal, and lands, tenements, and heredita-163.

3. Construction and Meaning of Words.

ments wherever situated, and debts, claims and incorporeal rights belonging or due, or falling by succession or otherwise to the Bankrupt, and any part thereof; that the word "Deliverance" shall include any Order, Warrant, Judgment, Interlocutor, or Decree; that the word "Security" shall include Securities, heritable or moveable, real or personal, and Liens and Preferences, and Conveyances thereof and any part thereof; that the word "Successors" shall include heirs, heirs apparent, representatives by deed or otherwise, executors and nearest of kin, and also assignees and singular successors. where they have acquired the right; that the word "Month" 10 shall mean a Calendar Month; that the word "Oath" shall include Affirmation, where by law such Affirmation shall be required to be taken in place of an Oath; that the word "Vote" shall, as well as the ordinary meaning thereof, include a consent to any offer of composition and to a discharge of the Debtor, and also a dissent 15 from such offer or discharge, and generally any act as a Creditor; that the words "Debtor," "Bankrupt" and "Creditor" shall include Bodies Corporate, Politic or Collegiate, Companies or Partnerships, as well as Individuals, and shall, as well as all other words importing the singular number and masculine gender, 20 include several persons as well as one person, and females as well as males, and married women carrying on trade independent of their husbands, and widows and aliens, and several matters of the same kind as well as one matter, (unless in this, and also in the other cases herein above specified, a different construction shall be pro- 25 vided, or the construction be repugnant to the subject-matter or context); And this Act shall be construed in the most beneficial manner for promoting the ends hereby intended.

Act to be construed beneficially for the ends thereof.

4. Sequestration of Estates of Debtors with their consent.

And be it Enacted, That the estates of any Debtor or Company subject to the laws of Scotland, and holding estates heritable or 30 moveable within Scotland, may be sequestrated; provided that the Debtor or Company shall petition for Sequestration, with the concurrence of one or more Creditors, qualified as hereinafter mentioned; and if the petition is not signed by the Debtor or Company, a mandate by him, and in the case of a Company, a mandate signed by 35 the Company or those entitled to act for it, authorizing such petition, shall be therewith produced.

5.
Sequestration of Estates of a Deceased Debtor.

And be it Enacted, That Sequestration may be applied for of the estates of any Deceased Debtor, who at the time of his death resided, or had a dwelling-house, or carried on business in Scotland, and was, 40 at that time, owner of heritable or moveable estates in Scotland, provided such Sequestration shall be applied for by one or more Creditors qualified as hereinafter mentioned: but no such Sequestration

tration shall be awarded until the expiration of Six Months from the Debtor's death, unless he shall have granted a mandate to apply for Sequestration, or was at the time of his death Notour Bankrupt, or had remained in sanctuary as hereinafter provided, or unless his successors shall concur in the petition or renounce the succession, in which several cases Sequestration shall forthwith be awarded.

And be it Enacted, That the estates of any Debtor subject to the laws of Scotland, who is, or has been, a merchant, trader, manufacturer, banker, broker, warehouseman, wharfinger, underwriter, 10 artificer, packer, builder, carpenter, shipwright, innkeeper, hotelkeeper, stable-keeper, coach contractor, cattle-dealer, grain-dealer, coal-dealer, fish-dealer, lime-burner, dyer, printer, bleacher, fuller, calenderer, and generally the estates of any Debtor subject as aforesaid, who seeks, or has sought his living, or a material part thereof, 15 for himself, or in partnership with another, or as agent or factor for others, by using the trade of merchandise, by way of bargain, exchange, barter, commission or consignment, or by buying and selling, or by buying and letting for hire, or by the workmanship or manufacture of goods or commodities, may be sequestrated without the consent of such Debtor, provided that he be Notour Bankrupt, and have carried on business in Scotland in any of the said occupations, and have also, within a year before the date of presenting the Petition for Sequestration, resided, or had a dwelling-house, or place of business in Scotland, and that a Petition be presented by one or more Creditors, as hereinafter directed: But it shall not be competent to sequestrate the estates of any Exceptions from sequestrate the estates of the estates of the from sequestrate the estates of the est Debtor without his consent, as a holder of stock in any of the Public or National Funds, or of India Stock, or as a Partner in any Company incorporated or established by Act of Parliament. or by Charter, or as a landholder or farmer, unless such landholder or farmer be bonâ fide a dealer in cattle not the produce of, nor grazed, nor worked on his farm, or unless he be a dealer in grain not the produce thereof.

Sequestration of Estates of

out consent,

And be it Enacted, That the estates of any Company subject to the laws of Scotland, and falling within any of the said descriptions, and not within any of the said exceptions, may be sequestrated without consent, provided any partner thereof has been rendered Notour Bankrupt for a Company Debt, and the Company have carried on business in Scotland in any of the said occupations, and a partner have, within a year before the date of presenting the Petition for Sequestration, resided, or had a dwelling-house, or the Company have had a place of business in Scotland, and a Petition for Sequestration be presented by one or more Creditors of the Company, as hereinafter directed.

7. Sequestration of Estates of Companies

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And

8.
Sequestration of the Estates of Debtors retiring to the Sanctuary.

And be it Enacted, That if any Debtor, subject to the laws of Scotland, and holding heritable or moveable estates there, shall retire to the Sanctuary, and remain therein for Sixty Days (either continuously or not), within the space of Twelve Months, as hereinafter provided, the estates of such Debtor, although he be neither Notour Bankrupt, nor within any of the said descriptions, may be sequestrated without the consent of such Debtor, provided a petition be presented by One or more creditors as hereinafter directed.

9. Creditors entitled to petition for Sequestration.

And be it Enacted, That any One Creditor whose debt amounts to not less than Fifty Pounds, or any Two Creditors whose debts together 10 amount to not less than Seventy Pounds, or any Three or more Creditors whose debts together amount to One hundred Pounds or upwards, whether such debts are liquid or illiquid (provided they be not contingent), may concur in a Petition by a Debtor or Company for Sequestration, or may petition for Sequestration of the estates of 15 any Debtor or Company liable to be sequestrated without consent; provided that if it be without consent of the Debtor or Company, the Petition be presented within Four Months after the date of the Notour Bankruptcy, or in case of retiring to the Sanctuary within Four Months after the expiration of the said Sixty Days as aforesaid.

10. Creditors to make Oaths to verity of Debt.

And be it Enacted, That to entitle a Creditor residing within the Kingdom of Great Britain and Ireland to petition, or concur in a Petition for Sequestration, or to vote, or to draw a dividend, he shall produce, either with the Petition for Sequestration, or at a meeting 25 of the Creditors, or in the hands of the trustee, an Oath, taken by him before a Judge Ordinary, Magistrate, or Justice of the Peace, to the verity of the debt claimed by him; and he shall in such oath state what other persons (if any) are, besides the Bankrupt, liable for the debt or any part thereof, and specify any security which he holds over the estate of the bankrupt or of other obligants; and depone that he holds no other obligants or securities than those specified; and where he holds no other person than the bankrupt so bound, and no security, he shall depone to that effect; and if he hold a collateral obligation or security, he shall, before voting, and 35 before being ranked in order to draw a dividend, be bound to qualify his claim as hereinafter provided: And in cases where the Creditor is a body Corporate, an Oath of verity made as aforesaid by the Manager, Cashier, Secretary, Clerk or other principal Officer of such Body Corporate, shall be sufficient, although the person making 40 the same be not a Partner in such Corporation; or in case of a Company, an Oath by a Partner shall be sufficient.

And

Creditors ou of Great Britain and Ireland;

And be it Enacted, That to entitle a Creditor who is out of the Kingdom of Great Britain and Ireland to petition, or concur in a petition, or to vote, or to draw a dividend, he shall produce as aforesaid an oath taken by him to the verity of the debt, in the manner above provided, before a Magistrate, or Justice of the Peace, or other person qualified to administer oaths in the country where he resides (he being certified to be a Magistrate or Justice of the Peace, or qualified as aforesaid by a British Minister or British Consul); or by a notary public, or his known agent or 10 mandatory in Great Britain or Ireland, shall make an oath of credulity in the same way and to the same effect; and where any creditor shall be under age, or incapable to make oath, an oath of credulity as aforesaid, by his authorized agent, factor, guardian or manager, shall be sufficient.

or incapable

12. Production of Vouchers.

And be it Enacted, That the Creditor shall produce with his said oath, such Accounts and Vouchers as shall be necessary to prove his debt; but if not in possession thereof previously to the period hereinafter assigned for lodging claims with a view to a share in any dividend, he shall state in his oath the cause 20 why the said accounts and vouchers are not produced, and in whose hands, to the best of his knowledge, the same are, which oath shall entitle him to have a dividend set apart till a reasonable time be afforded for production thereof, or for otherwise establishing his debt according to law; but he shall not be entitled to act or vote till such 25 production be made or the debt established as aforesaid; and the Interim Factor or Trustee shall, on production of the oaths and grounds of debt, mark the same with his initials, and make an entry thereof in the Sederunt Book, and of the date when the same were produced, and, if required, he shall return to the Creditor the grounds of debt.

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Mode of ap plying for Sequestration.

And be it Enacted, That application for Sequestration shall be made by Petition to the Lord Ordinary, signed by the petitioner or his counsel or agent, and the agent shall be entitled to mark thereon the Division of the Court to which the Sequestration 35 shall be appropriated, and the petitioning or concurring Creditor shall in all cases produce with such petition an Oath to the effect above specified, and also the accounts and vouchers of debt, as hereinbefore provided; and where the Petition is presented for Sequestration of the estates of a deceased debtor, the petitioning 40 creditor shall in his oath, or in a separate oath, specify the place where the debtor resided, or had a dwelling-house, or carried on business in Scotland at the time of his death, and whether he was then owner of estates in Scotland; and where the Petition is presented during the life of the debtor, or for Sequestration of the estates of a Company, without the consent of the Debtor or Company, the 163. petitioning **A** 3

petitioning Creditor shall in such oath swear that he believes the Debtor or Company (as the case may be) to be within one or other of the said descriptions, and he shall specify which description, or that he believes the debtor to have retired and remained within the Sanctuary as hereinbefore provided.

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14.
On Petition by the Debtor, Sequestration to be awarded.

Order to elect Interim Factor, Trustee and Commissioners.

Remit to Shoriff. Protection of Debtor.

15. Sequestration of the Estates of deceased

Debtor.

And be it Enacted, That where a Petition is presented for Sequestration by the Debtor or by a Company, with concurrence as aforesaid, the Lord Ordinary shall forthwith issue a deliverance by which he shall award Sequestration of the estates which then belong, or shall thereafter belong, to the Debtor or Company before the date 10 of the discharge, and declare the estates to belong to the Creditors for the purposes of this Act; and he shall appoint a meeting of the Creditors to be held at a specified hour, on a specified day, being not earlier than Eight and not later than Fourteen Days from the date of the deliverance, at a convenient place within the county where 15 the Debtor carries on, or last carried on his business, (failing which, at a convenient place within the county wherein he resides or last resided), to elect an Interim Factor; and another meeting to be held at a specified hour, on another specified day, being not less than Four Weeks and not more than Six Weeks from the date 20 of the deliverance, at the place fixed for the election of Interim Factor, to elect a Trustee or Trustees in succession, and Commissioners, and do the other acts hereinafter provided; and he shall likewise remit to the Sheriff of the county where the meeting is to be held to proceed in manner hereinafter mentioned; and grant 25 to the Debtor or Partners of the Company (as the case may be) a Warrant of Protection against arrest or imprisonment for civil debt until the meeting of the Creditors for the election of Trustee as hereinafter provided.

And be it Enacted, That where a Petition is presented for Sequestration of the estates of a Debtor who is dead, the Lord Ordinary shall grant warrant to cite the debtor's successor, personally or at his dwelling-place, if known and within Scotland, or if not known, or if furth of Scotland, at the Office of Edictal Citations, and in either of these last cases also at the house where the Debtor had at the time of 35 his death his residence, or his place of business in Scotland, on induciæ of Twenty-one Days from the date of citation, to show cause why Sequestration should not be awarded; and if, on the expiration of the said Twenty-one Days, and production of an execution of citation, no appearance be made, the Lord 40 Ordinary shall order intimation of such warrant to be published in the Edinburgh Gazette, requiring the said successor to appear within a further space of Twenty-one Days from the date of the publication of the said intimation; and if he do not then appear, or if appearing, no cause to the contrary be shown by him or any party

175

party interested, the Lord Ordinary shall award Sequestration, and issue the other orders, as hereinabove provided in the case of any other Debtor, in so far as circumstances will permit; and he shall ordain any successor who has made up a title to, or is in possession of the estate of the Debtor, to transfer such estate, so far as liable for the debts of the deceased, to the Trustee to be appointed as hereinafter directed: And if desired, the Lord Ordinary shall grant diligence to recover evidence to show that the Debtor resided, or had a dwelling-house, or carried on business in Scotland at the time of his death, and was then the owner of heritable or movemble estates in Scotland: and if Sequestration shall be awarded, such Sequestration shall proceed in the same way as in other cases, with the differences necessarily arising from the death of the Debtor: and the petitioning Creditor may at any time after the execution of 15 the citation, and before Sequestration is awarded, apply by written note to the Lord Ordinary to appoint a Judicial Factor to administer the estate in the mean time, and if no cause be shown to the contrary, the Lord Ordinary may appoint a Factor accordingly; and it shall not be competent for any Creditor, after the date of the first deliverance on the Petition for Sequestration, to be confirmed Executor Creditor, or to raise or insist in any adjudication or diligence against the estate of the Debtor.

Judicial Factor

And be it Enacted, That where the Petition for Sequestration is presented without the consent of the Debtor, the Lord Ordinary shall 25 grant warrant to cite him to appear within a specified period, if he be within Scotland, of not less than Six Days nor more than Twentyone Days from the date of citation, by delivering to him personally, or by leaving at his dwelling-house or place of business, a copy of the petition and warrant; and if the Debtor be furth of Scotland, to 30 cite him to appear within a specified period, being not less than Thirty Days nor more than Forty Days from the said date, by leaving a copy at the dwelling-house or place of business last occupied by him, and also at the Office of Edictal Citations, to show cause why Sequestration should not be awarded; and the Lord Ordinary 35 shall, if desired, grant diligence to recover evidence of the Notour Bankruptcy, and of the Debtor being within the requisite description, or of his having retired to and remained within the Sanctuary as aforesaid; And if, upon the expiration of the time specified in the warrant, the Debtor do not appear at the diet of appearance either 40 in person, or by his counsel or agent, or so appearing do not instantly pay or produce written evidence of the debt or debts being satisfied in respect whereof he was made Notour Bankrupt, or in respect of which he had retired to and remained within the Sanctuary, and also pay or satisfy or produce written evidence of the payment or satisfaction of the debt or debts due to the Petitioner or Petitioners or to any other Creditor or Creditors appearing and 163. **A** 4 concurring

16.
If Sequestration applied for without the Debtor's consent,
Warrant to cite, &c. to be granted.

concurring in the petition, or do not show cause why Sequestration should not be awarded, the Lord Ordinary, on production of evidence of the citation, and of the Notour Bankruptcy, and of the Debtor being within the requisite description, or of having retired to and remained within the Sanctuary as aforesaid, shall award Sequestration, appoint a meeting to be held for the election of an Interim Factor, Trustee and Commissioners, remit to the Sheriff, and grant a personal protection, all to the effect and in the manner above specified.

17. Sequestration of the Estates of a Company, without consent.

And be it Enacted, That where a Petition is presented for the 10 Sequestration of the estates of any Company, the Lord Ordinary shall issue warrant and other orders to the same effect, and dispose of the petition in the same way as in the case of individual Debtors, and it shall be a sufficient citation that a copy of the petition and warrant be left at the place where the business of the Company is 15 or was last carried on, provided a partner, or a clerk, or a servant of the Company be there, and failing thereof, at the dwelling-house of any of the acting partners, and if the house of such partner cannot be found, by leaving the copy at the Office of Edictal Citations; and Sequestration may be awarded either on the application of the 20 Company itself, or on the application of a Creditor without the consent thereof of the estates of the Company and Partners jointly, or of their respective estates separately.

18. Liberation of Debtor.

And be it Enacted, That the Lord Ordinary may, on application made, either in the petition for Sequestration, or by a separate 25 petition by the Debtor, grant warrant for liberating the Debtor, if in prison, after such intimation to the incarcerating Creditor or his known agent, as the Lord Ordinary shall deem to be just, and after hearing any objection to the granting of such Warrant; and if the application be refused, it shall be competent for the Debtor to 30 make a new application for liberation, with consent of the Trustee and the Commissioners; and on intimation and hearing objections as aforesaid, the Lord Ordinary may grant Warrant to liberate.

19. Effect of Warrant to protect or liberate. And be it Enacted, That the Warrant granting protection or 35 liberation, or a copy thereof certified by one of the Bill Chamber Clerks, shall protect or liberate the Debtor, or a partner of a Company from arrest or imprisonment in Great Britain and Ireland, and Her Majesty's other dominions, for civil debt contracted previous to the date of Sequestration; but such Warrant of protection or liberation shall not be of any effect against the execution of a Warrant of arrest or imprisonment in meditatione fugæ, or ad factum præstandum, or for any criminal act.

And

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And be it Enacted, That the Clerks of the Bill Chamber in the Bill Chamber Court of Session shall be Clerks to Sequestrations under this Act; and they shall keep a book, intituled, "The Register of Sequestrations," in the form of Schedule (A.) hereunto annexed, which book shall be patent to all concerned; and they shall forthwith therein enter the Division of the Court to which the Sequestration is appropriated; the date of the first deliverance on every petition for Sequestration; the name and designation of the Debtor; the place and county of his residence, dwelling-house, or place of business; and the name and designation of the petitioning or concurring Creditor; the date of awarding or recalling Sequestration; the date of transmission to the Sheriff; the time and place appointed for the election of the Interim Factor and Trustee; the name and designation of the Interim Factor, and of the Trustee, 15 and Commissioners; and the time for lodging claims in order to obtain payment of the first dividend.

Clerks to be questrations; and Duties. Register of Sequestra-

21. Abbreviate to be recorded in Inhibitions.

And be it Enacted, That the party applying for Sequestration shall, before the expiration of the Second lawful day after the first deliverance, present an Abbreviate of the petition and deliverance, signed by him or his agent, in the form of Schedule (B. No. 1) hereunto annexed, to the Keeper of the Register of Hornings and Inhibitions at Edinburgh, who shall forthwith therein record the said Abbreviate, and write and subscribe a certificate thereof on the said petition in the form also specified in the said Schedule 25 (B. No. 2), and the Abbreviate so recorded shall from the date of the said deliverance have the effect of an Inhibition, and of a citation in an adjudication of the estate of the Debtor, at the instance of the Creditors afterwards ranked on the estate; and it shall not be competent to stop such effect, or the effect of the Sequestration after it 30 is awarded, by paying the debt or debts in respect of which it was applied for or awarded; and if the said Abbreviate be not so recorded, it shall have no effect as an Inhibition or citation as aforesaid: And the party applying for Sequestration shall, within Four Days from the date of the deliverance awarding Sequestration, insert a Notice, in the form of Schedule (C.) hereunto annexed, in the Edinburgh Gazette, and also one Notice in the same terms within Eight Days from the said date in the London Gazette; but it shall not be necessary to insert any other Notice, under this Act,

Notice of Sequestration to be published in

And be it Enacted, That the Deliverance awarding Sequestration Deliverance 40 shall not be subject to review; but any Debtor whose estate has been sequestrated without his consent, or the successor of any deceased Debtor whose estate has been sequestrated as aforesaid, or any Creditor (whether the Sequestration has been awarded with or without the consent of the Debtor or his successor) may within Forty Days 163.

in the London Gazette.

awarding Se not liable to review, but

after the date of the said Deliverance, present a petition to the Lord Ordinary, setting forth the grounds for recall, and praying for recall; and where Sequestration has been awarded of the estate of a deceased Debtor, when his successor was edictally cited, it shall be competent to such successor, or any person having interest, to apply by petition as aforesaid, at any time before the publication of the advertisement for payment of the first dividend hereinafter mentioned: And the Lord Ordinary shall in these several cases order a copy of the petition and of his deliverance to be served on the petitioning Creditor, or (as the case may be) on the petitioning 10 Debtor and the concurring Creditor, or on their respective known agents, and on the Interim Factor or Trustee, if appointed; and he shall require them to answer within a specified short time; and order a Notice of the presenting of the petition to be published in the Edinburgh Gazette; and on the expiration of the time so fixed 15 he shall proceed to pronounce judgment; and if he shall recall the Sequestration, the recall shall be entered in the Register of Sequestrations, and on the margin of the Record of Inhibitions; but in the meantime and until the Sequestration be finally recalled, the proceedings in the Sequestration shall go on as if no such 20 petition had been presented.

Notice to be published.

23. No Recall competent after a certain time, unless Nine-tenths of Creditors apply.

And be it Enacted, That no petition for recall of the Sequestration shall be competent after the expiration of the said Forty Days, or after the said advertisement for payment of the first dividend respectively: Provided, That Nine-tenths in number and value of 25 the Creditors ranked on the estate as herein directed may apply at any time for recall by petition to the Lord Ordinary, who shall order notice of his deliverance to be published in the Edinburgh Gazette, requiring all concerned to appear within Fourteen Days from the date of publication in the Gazette, to show cause why the Seques- 30 tration should not be recalled; and on expiration of the said time he shall proceed to pronounce judgment; but in the meantime and until the Sequestration be finally recalled, the proceedings in the Sequestration shall go on as if no such petition had been presented.

24. Creditors may be sisted in place of others.

Proceedings to go on although Debtor die.

And be it Enacted, That if a Creditor who has petitioned for Sequestration, or concurred in such petition, or who has petitioned for recall of a Sequestration, or appeared to oppose a petition for Sequestration or recall, or lodged an objection, shall withdraw, or become bankrupt, or die, any other Creditor may be sisted in his 40 place, and follow out the proceedings; and if the Debtor shall die after the petition for Sequestration is presented, the proceedings shall notwithstanding be followed out in terms of this Act, so far as circumstances will permit.

 \mathbf{And}

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And be it Enacted, That in all questions under this Act the Sequestration shall be held to commence and take effect on and from the date of the first deliverance by the Lord Ordinary, which shall be held to be the date of the Sequestration, although the Sequestration be not actually awarded till a later date.

And be it Enacted, That the awarding of Sequestration in virtue of this Act, shall render the Debtor or Company Notour Bankrupt, as at the date of the first deliverance, without prejudice to any previous Notour Bankruptcy; and in all questions upon this 10 Act, all Dispositions, heritable Bonds, or other heritable rights whereupon infeftment may follow, shall be reckoned to be of the date of the registration of the Sasine taken thereon, without prejudice to the validity or invalidity of the said heritable rights in all other respects; and all Dispositions, Assignations and Vendi-15 tions, which do not require Sasine, but to which intimation or delivery is requisite in order to render them complete as transferences or as securities, shall in all questions under this Act, be reckoned to be of the date of the intimation, delivery or other act requisite for completing the same without prejudice to their validity 20 or invalidity in other respects.

26. Sequestration equivalent to Notour Bankruptcy.

And be it Enacted, That the presenting of, or concurring in a petition for Sequestration, or the lodging a claim in terms of this Act, in the hands of the Interim Factor, Sheriff Clerk acting as Factor, or Trustee, or the Sheriff officiating or Preses at any meet-25 ing of Creditors, shall interrupt prescription of the Creditor's debt so petitioning, concurring, or claiming, and in regard to such debt, bar the effect of any Statute of Limitations in England or Ireland or Her Majesty's dominions; and although the Sequestration shall be recalled, such interruption or bar shall notwithstanding be effectual.

Petitioning concurring or claiming to interrupt and bar Statute of Limitations.

And be it Enacted, That notwithstanding the said remit to the Sheriff, the Sequestration shall be held to be in the Bill Chamber of the Court of Session, and shall not fall asleep; and on the said remit being made, a copy of the Petition for Sequestration, and of the first deliverance, and also (where it is different) of the 35 deliverance awarding Sequestration, certified by one of the Clerks of the Bill Chamber, shall, with the productions, be transmitted by the petitioner to the Sheriff Clerk of the county, or place where the meeting for election of Interim Factor is directed to be held; and the Sheriff shall have as full power and jurisdiction as 40 hitherto possessed by the Court of Session (subject to review) in all questions in the Sequestration, except in those cases where the power is otherwise specially conferred; and the Sheriff Clerk and Messengers at Arms and Officers of the Sheriff Court shall 163.

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28. Sequestration to remain in Chamber, but certified Copy of Petition, &c. to bo transmitted to the Shoriff

Jurisdiction of Sheriff.

Sheriff Clerk to keep Register. have power to act in their respective offices under this Act; and the Sheriff Clerk shall keep a register of Sequestrations transmitted to him in terms of the said Schedule (A.)

29. Extracts to be Evidence and warrants for Diligence.

And be it Enacted, That all deliverances of the Lord Ordinary and of the Court of Session, and of the Sheriff, as well as extracts and certified copies of all deliverances under this Act, shall be evidence in all courts and places within Great Britain and Ireland and Her Majesty's dominions, and shall be sufficient warrants for all Diligence and execution by law competent.

30.
Agent's claim for expenses restricted to estate and against enaployer.

And be it Enacted, That no person shall, by merely lodging an 10 oath, and claim, or being ranked, or receiving payment of a dividend, or appearing or voting at a meeting in a Sequestration as a Creditor, be liable for any claim by the agent or other person employed by the Interim Factor or Trustee, for money advanced, or expense incurred, or remuneration in relation to the affairs of the 15 estate, reserving to the agent or other person so employed, right to payment out of the estate, and from the Interim Factor or Trustee by whom he may have been so employed in so far as the same may be competent to him; and no Interim Factor or Trustee shall have relief in respect of such payment against such Creditor, 20 reserving to such Interim Factor or Trustee relief against the estate and against those Creditors or others who may on other grounds be liable in relief.

31. Mandatories for Creditors may vote.

And be it Enacted, That the mandatory of any person entitled to vote as a Creditor, may vote in the absence of such Creditor, provided 25 he exhibit a mandate; and the vote of such mandatory shall, within his mandate, be held as the vote of the Creditor himself.

32.
Persons acquiring Debts after Sequestration not to vote.

And be it Enacted, That no person who shall acquire, after the date of the Sequestration, otherwise than by succession or marriage, a debt due by the Bankrupt, shall be entitled to vote in the election of Interim Factor or Trustee or Commissioners; but in all other respects such person may be reckoned as a Creditor.

33. Creditors may accumulate Arrears of Interest.

And be it Enacted, That if a Creditor claim for a debt with bygone interest, he may in his oath accumulate the interest as at the date of the Sequestration, and he shall specify the amount of the interest, 35 and also of the accumulated sum, but he shall not be entitled to claim on the estate for interest either on the principal Debt or on such accumulated sum after the date of the Sequestration; And if a Creditor claim for a debt which is not payable till after the date of the Sequestration, he shall in his oath deduct the legal interest thereon from 40 the date of the Sequestration to the term of payment, and specify the balance;

Rules as to Interest on Debts and Discounts. balance; and if he claim for a debt which, by the usage of trade, is liable to a discount of more than legal interest, he shall in his oath state the amount of such discount, and deduct it from the debt, and specify the balance; provided that if such debt be not payable at the date of the Sequestration, he shall also deduct from such balance the legal interest as aforesaid, and specify the balance: And the Creditor in the said several cases shall be entitled to vote, and to draw dividends for the said accumulated sum or balance respectively and no more: Provided that, if there be any residue of the estate after discharging the debts ranked, he shall be entitled to claim out of such residue the full amount of the interest on his debt in terms of law.

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And be it Enacted, That if a Creditor hold a security for his debt over the estate of the Bankrupt, he shall, before voting make an oath, in which he shall put a specified value on such security, and deduct such value from his debt, and specify the balance: and if the estate be sold, he shall specify in his oath the free proceeds which he has received or shall be entitled to receive therefrom, and specify the balance due after deduction thereof; and he shall be entitled in either case to vote in respect of such balance and no more; without prejudice to the amount of his debt in other respects: And in questions as to the disposal or management of the estate subject to his security, he shall be entitled to vote as a Creditor for the whole amount of his debt, without making any such deduction.

34. Rules as to valuation of securities with a view to voting.

Where a Creditor holds them over the Bankrupt's estate.

And be it Enacted, That where a Creditor has an obligant bound with, but liable in relief to the Bankrupt, or holds any security from an obligant, liable in relief to the Bankrupt, or any security, from which the Bankrupt has a right of relief, such Creditor shall, before voting, make an oath, in which he shall put a specified value on the obligation of such obligant, and on such security, to the extent to which the Bankrupt is entitled to relief, and he shall deduct such value from his debt, and specify the balance; and he shall be entitled to vote in respect of such balance and no more, without prejudice to the amount of his debt in other respects.

35. Where he has obligants,&c. liable in relief to the Bankrupt.

And be it Enacted, That a Creditor on the estate of a Company shall not be bound, for the purpose of voting on the Company's estate, to deduct from his claim the value which he may be entitled to draw from the estates of the partners; but if he claim on the estate of a partner, he shall, before voting, in his oath, put a specified value on his claim against the estate of the Company, and also against the other partners thereof, in so far as they are liable to relieve such partner, and deduct such value from his debt, and specify the balance; and he shall be entitled to vote as a Creditor for the

36. Creditors of a Company on a partner's estate.



said balance, and no more, without prejudice to the amount of his debt in other respects.

37. Right of Trustee to Assignation to such Securities.

Provided always, and be it Enacted, That it shall be competent to the Trustee, with consent of the Commissioners, within Two Months after an oath specifying the value of a security or obligation or claim in the several cases before-mentioned, has been made use of in voting at any meeting, or in assenting to or dissenting from the Bankrupt's composition or discharge, as also it shall be competent to the majority of the Creditors (excluding the Creditor making such oath) assembled at any meeting during such meeting, to require 10 from the Creditor making such oath a conveyance or assignation in favour of the Trustee to such security or obligation on payment of the specified value, with Twenty per centum in addition to such value; and the Creditor shall be bound to grant such conveyance or assignation at the expense of the estate: Provided, that where 15 a Creditor has put a value on such security or obligation, he may, at any time before he has been required to convey and assign as aforesaid, correct such valuation by a new oath, and deduct such new value from his debt.

Provision for change on values of Securities.

Provision as to new value.

38. Rules as to Valuation of Securities, with a view to a dividend.

And be it Enacted, That to entitle any Creditor who holds a secu- 20 rity over the estate of the Bankrupt, to be ranked, in order to draw a dividend, he shall on oath put a specified value on such security, and deduct such value from his debt, and specify the balance; and the Trustee, with consent of the Commissioners, shall be entitled to a conveyance or assignation to such security, on payment of 25 the value so specified out of the first of the Common Fund, or to reserve to such Creditor the full benefit of such security; and in either case the Creditor shall be ranked for and receive a dividend on the said balance, and no more, without prejudice to his debt in other respects.

39. Valuation of Claims by Creditors of a Company with a view to a dividend on a Partner's Estate.

And be it Enacted, That where Creditors claim on the estate of a partner of a Company, in respect of a debt due by such Company, the Trustee on the estate of such partner shall, before ranking such Creditors for payment of a dividend, put a valuation on the estate of the Company, and deduct from the claims of such Creditors such estimated value, and rank and pay to them a dividend only, on the balance; but the judgment of the Trustee shall be subject to review, as hereinafter provided.

40. Contingent Creditors.

And be it Enacted, That where the claim of a Creditor depends upon a contingency which is unascertained at the date of lodging 40 his claim, he shall not be entitled to vote, nor to draw a dividend in respect of such contingent debt; but he may apply to the Sheriff,

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if the Trustee has not been elected, or if elected, to the Trustee, to put a value on such debt; and the Sheriff or Trustee (as the case may be) shall put a value thereon; and on such value being fixed, such Creditor shall be entitled to vote and draw dividends in respect of such value, and no more: Provided that if such contingency have taken place before the debt has been valued, such Creditor may vote and draw dividends in respect of the amount of the debt, but the same shall not disturb any former dividends allotted to other Creditors; and where such application is made to the Sheriff, notice 10 thereof shall be given to the Interim Factor (if he be elected), and if not elected, to the Bankrupt and petitioning or concurring Creditor; and the judgment of the Sheriff or Trustee shall be subject to review, and any Creditor who has claimed on the estate may appear and be heard thereon.

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41. Annuity Cre-

And be it Enacted, That no Creditor in respect of an annuity granted by the Bankrupt, shall be entitled to vote or draw a dividend, until such annuity shall be valued; but he may, if the Trustee has not been elected, apply to the Sheriff, or if elected, to the Trustee, to put a value on such annuity; and the Sheriff or Trustee (as the 20 case may be) shall put a value on the annuity, regard being had to the original price given for the said annuity, deducting therefrom such diminution in the value of the annuity as shall have been caused by the lapse of time, since the grant thereof, to the date of the Sequestration; and such Creditor shall be entitled to vote 25 and draw dividends in respect of such value, and no more: Provided always, That where such application is made to the Sheriff, notice thereof shall be given to the interim Factor (if elected), and if not elected, to the Bankrupt and the petitioning or concurring Creditor; and the judgment of the Sheriff or Trustee shall be subject to review; 30 and any Creditor who has claimed on the estate may appear and be heard thereon.

Provided always, and be it Enacted, That where any person is Provision as bound as Cautioner for payment of such annuity, it shall not be to Cautioners for annuities. lawful for the Creditor therein to sue or charge, after the date of the Sequestration, such Cautioner; and such Cautioner shall only be liable for the value fixed as aforesaid, and the arrears of annuity; and on such Cautioner making payment of such value and arrears to the Creditor, and the lawful interest thereon, he shall be discharged of all liability for such annuity, and he may thereupon 40 enter a claim in the Sequestration for the sum so paid, and vote and draw dividends thereon: Provided, That if such Cautioner shall not pay the sum so fixed and arrears as aforesaid, before any payment of the annuity subsequent to the fixing thereof becomes due, he shall be bound to make payment of the said annuity, 163.

annuity, and all subsequent annuities, until he shall make payment of the sum so fixed, arrears of annuity and interest as aforesaid, deducting always such dividends as the Creditor shall have received before full payment as aforesaid.

43. Claiming or acting in the Sequestration not to discharge Co-obligants.

And be it Enacted, That where a Creditor has an obligant bound to him along with the Bankrupt for the whole or part of the debt, such obligant shall not be freed from his liability for such debt in respect of any vote given, or dividend drawn by the Creditor, or of his assenting to the discharge of the Bankrupt, or to any composition; but such obligant may require and obtain at his own expense from such Creditor an assignation to the debt on payment of the amount thereof, and in virtue thereof enter a claim on the said estate, and vote, and draw dividends, if otherwise lawfully entitled to do so.

44. Oath not to supersede legal Evidence.

And be it Enacted, That in no case shall oaths of verity or credulity supersede production of legal evidence where required in any 15 judicial discussion before the Court of Session, the Lord Ordinary, the Sheriff, or the Trustee.

45. Rule as to Majorities.

And be it Enacted, That all questions at any meeting of Creditors shall be determined by the majority in value of those present and entitled to vote, unless in the cases herein otherwise provided for; and where, for the purpose of voting, the Creditors are required to be counted in number, no Creditor whose debt is under Twenty Pounds shall be reckoned in number, but his debt shall be computed in value.

46.
Proceedings
at Meetings
for election of
Interim Factor or Trustee.

And be it Enacted, That Creditors or their mandatories qualified 25 as aforesaid shall assemble at the times and places fixed respectively for the election of Interim Factor, and for election of the Trustee, with power to adjourn for such reasonable time as may seem fit; provided such adjournments do not postpone the meetings for the election of Interim Factor and Trustee beyond the limits of the 30 periods within which these meetings are by this Act appointed to be held; and the Sheriff Clerk shall transmit or cause to be transmitted for exhibition to the meeting for the election of Interim Factor, the certified copy of the Petition for Sequestration, and deliverances thereon; And if Two or more Creditors shall give notice to the Sheriff or Sheriff 35 Substitute of the county, such Sheriff or Sheriff Substitute (or in case of necessary absence, a Sheriff Substitute authorized by the Sheriff to act under this Act) shall attend the meeting, and adjourned meetings, and preside; and the Sheriff Clerk or his Deputy shallalso attend, and mark the oaths and productions with his initials, and write the minutes 40 in the presence of the meeting, and enter therein the names and designations of the Creditors present, or the mandatories Creditors,

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Creditors, and the amount for which they claim, and any other circumstances which the presiding Sheriff shall judge fit; which minutes the presiding Sheriff shall sign; and the Clerk shall retain the oaths of the several claimants, subject to exhibition thereof, in his hands, till the election shall be determined, when he shall deliver the same to the interim Factor or Trustee (as the case may be): And where the Sheriff or Sheriff Substitute is not present, the Creditors shall elect a Preses and (if the Sheriff Clerk or a Depute be not present) a Clerk, and the Preses shall mark the oaths and 10 productions with his initials, and sign the minutes, and the Clerk shall in the presence of the meeting write the minutes, and enter therein the names and designations of the Creditors or mandatories and the amount for which they claim, and any other circumstances relating to the said meeting, and in either case the Creditors 15 or their mandatories, who have produced their oaths and documents of debt, and who have been entered in the minutes, shall then and there elect a fit person to be Interim Factor, or to be Trustee (as the case may be), or two or more Trustees to act in succession in case of non-acceptance, death, resignation, removal or 20 disqualification; and in the case of the Sequestration of the estates of a Company and of the partners, one Interim Factor and (as the case may be) one Trustee for all the estates, or separate Interim Factors or (as the case may be) separate Trustees on the estates of the Company, and on the estates of all or each of the individual 25 partners, and trustees in succession as aforesaid: And it shall not be lawful to elect as Interim Factor or Trustee the Bankrupt, or any person conjunct and confident with the Bankrupt, or who holds an interest opposed to the general interest of the Creditors, or whose residence is not within the jurisdiction of the Court of Session.

And be it Enacted, That if the Sheriff or ordinary Sheriff Substitute be present at the election either of Interim Factor or Trustee, and there be no competition for the office, or objections stated to the candidate or candidates, he shall, by a deliverance on the minutes, declare the person chosen by the Creditors to be Interim Factor or Trustee; and if there be competition or objections to the candidate or candidates, any objections shall be stated at the meeting to the votes or candidates; the Sheriff or ordinary Sheriff Substitute may either forthwith decide thereon, or make avizandum, and he shall, if necessary, make a short note of the objections and of the answers, on which he shall, within Four Days after the meeting, hear parties vivâ voce, and declare the person to be Interim Factor, or (as the case may be) the person or persons, trustee or trustees in succession, whom he shall find to have been duly elected, and state the grounds of his decision in a note, and the same, as well as the said short note, shall form part of the process.

47. Where Shoriff or his ordinary Substitute is present.

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Provided

48. Where the Sheriff or or-dinary Substitute is not present.

Provided always, and be it Enacted, That where the officiating Sheriff, present at the said meeting for the election, is a Sheriff Substitute appointed to act in the absence of the Sheriff or of the ordinary Sheriff Substitute of the county, or where the Preses has been elected by the Creditors, such Substitute or Preses (whether there be any competition or objection or not), shall forthwith report the proceedings to the Sheriff or ordinary Sheriff Substitute, and the oaths of the several claimants shall, if the Sheriff Clerk or his Depute be present, remain in his possession, or, if he be not present, shall be transmitted to the Sheriff Clerk by the Preses, to be retained by 10 him till the Interim Factor or Trustee (as the case may be) shall be finally appointed, when he shall deliver the same to such Interim Factor or Trustee; and if there be no competition or objection, the Sheriff or ordinary Substitute shall declare the person elected Interim Factor or (as the case may be) Trustee or Trustees in 15 succession; and if there be competition or objection, the parties shall, within Four Days from the date of the said meeting, lodge in the hands of the Sheriff Clerk short notes of objections, and the Sheriff or ordinary Sheriff Substitute shall forthwith hear parties thereon vivâ voce, and give his decision, and state the grounds 20 thereof in a note, which note, as well as the said short notes, shall form part of the process; and the deliverance of the Sheriff or Sheriff Substitute, declaring the person elected to be Interim Factor, shall be final, and in no case be subject to review in any court or in any manner whatever.

49 Amount of Caution to be fixed, and Bond to be lodged.

And be it Enacted, That the Creditors shall at the said meetings respectively fix a sum for which the Interim Factor shall find security, and for which the Trustee to be confirmed shall also find security, for their respective intromissions and performance of the duties and rules hereby enacted, and shall also decide on the sufficiency of the caution offered by the respective competitors; and the Interim Factor and the person declared to be Trustee shall respectively forthwith lodge with the Sheriff Clerk a Bond of Caution, signed by the Interim Factor and his Cautioner, and by the Trustee and his Cautioner (as the case may be) in the form of the Schedule (D.) 35 hereunto annexed, which bond shall be furnished to him by the Sheriff Clerk.

50. Confirmation and Act and Warrant to be issued.

And be it Enacted, That on the Bond for the Interim Factor being lodged, the Sheriff shall confirm his election, which confirmation shall be final and not subject to review in any Court or 40 in any manner whatever; and the Sheriff Clerk shall issue an Act and Warrant in the form of Schedule (E.) hereunto annexed, to the Interim Factor: And in the event of the said deliverance declaring the election of Trustee becoming final by no appeal being entered as hereinafter provided, and in case of any such appeal

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appeal being entered and the competition or objections being finally disposed of, and on a Bond being duly lodged as aforesaid, the Sheriff shall confirm the election of the person elected or preferred as Trustee, which confirmation shall be final and not subject to review in any Court, or in any manner whatever: and the Sheriff Clerk shall issue an Act and Warrant in the form of Schedule (F.) hereunto annexed, to the Trustee: And the Interim Factor or Trustee (as the case may be) shall immediately transmit a copy of the said Act and Warrant to the Bill Chamber Clerks, who 10 shall make an entry of the name and designation of the Interim Factor and of the Trustee (as the case may be) in the Register of Sequestrations; and the said Act and Warrant shall be an effectual title to the Interim Factor, and Trustee respectively to perform the duties hereby imposed on them, and shall be 15 evidence of the Trustee's right and title to the said estates for the purposes of this Act; and a copy of the said Act and Warrant in favour of the Interim Factor, or Trustee, certified by one of the Bill Chamber Clerks, and authenticated by the seal of the Court of Session, shall be received in all courts and places within England, 20 Ireland and Her Majesty's other dominions, as evidence of the title; and shall entitle the Trustee or Interim Factor to recover any debt due to the Bankrupt and to maintain actions in the same way as the Bankrupt might have done if his estates had not been sequestrated.

And to be a title as Interim Factor or Trustee.

And be it Enacted, That in case the Creditors shall fail to elect an Interim Factor, or the nomination shall otherwise fail, the interim care and management of the estate shall devolve on the Sheriff Clerk of the county; and the Sheriff shall have power upon cause shown by any of the Creditors at any time after the sequestration, and before the election of an Interim Factor, to seal up and cause to be put under safe custody the books and papers of the bankrupt, and to lock up his shop, warehouse or other repositories, and to keep the keys thereof till a Factor is named, or the care of the estate devolved on the Sheriff Clerk, subject to such orders as the Sheriff may see fit for preservation.

51. Sheriff Clerk to act if no Interim Factor elected.

Power to Sheriff to seal up and preserve estate, before election of Factor.

And be it Enacted, That the Interim Factor shall, immediately on receiving the Act and Warrant of his appointment, or, failing him, the Sheriff Clerk, shall take such steps as may be necessary for the preservation of the estate until the meeting of the Creditors for the election of Trustee; and he shall take possession of and recover the Bankrupt's estate, and his title-deeds, books, bills, vouchers, and all other documents whatsoever, so far as then known, and make an inventory thereof; and he shall transmit a copy of such inventory to the Bill Chamber Clerks; and he shall lodge in Bank all monies received by him as hereinafter directed, and pay to the petitioning or concurring Creditor, out of the first funds 163.

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Duties of Interim Factor.

To lodge Money in Bank, &c. which shall come into his hands, the expense incurred by him in obtaining the Sequestration, and doing the other acts hereby required prior to the election of the Interim Factor, as the same shall be taxed; and if the funds received by the Interim Factor or Sheriff Clerk shall not be sufficient, such expenses shall be paid by the Trustee, when he shall be appointed, out of the first of the funds which shall come into his hands.

53. Bank rupt to make up state of affairs, and give information and assistance.

And be it Enacted, That the Bankrupt shall with all despatch, and before the time appointed for the election of Trustee, make up and deliver to the Interim Factor (or Sheriff Clerk, as the case may 10 be) a state of his affairs, specifying his whole estate, wherever situated, the estates in expectancy or to which he may have an eventual right, the names and designations of his Creditors and Debtors, and the debts due by and to him, and a rental of his heritable subjects, which state and rental shall be subscribed by the Bankrupt 15 and preserved by the Interim Factor or Sheriff Clerk acting as Factor, and abstracts thereof shall be ingressed in a Sederunt Book to be kept by him; and the Bankrupt shall at all times give every information and assistance necessary to enable the Interim Factor or Sheriff Clerk acting as Factor or the Trustee to execute his duty; 20 and if the Bankrupt fail to do so, or to grant any deed which may be requisite for the recovery of the estate, the Interim Factor or Sheriff Clerk acting as aforesaid, or Trustee, may apply to the Sheriff to compel him to give such information and assistance, and to grant such deed, under the penalty of incarceration and of forfeiture of the 25 benefits of this Act; and, unless cause be shown to the contrary, the Sheriff shall issue a warrant of incarceration accordingly.

54. At meeting to elect Trustee, Interim Factor to exhibit Documents and be remunerated.

And be it Enacted, That at the time and place appointed for the said meeting to elect a Trustee, the Interim Factor (or Sheriff Clerk) acting as Factor, shall exhibit the Sederunt Book containing the said inven- 30 tory, state and rental, and also an account of his intromissions and disbursements, and if required by any Creditor, the books of the Bankrupt, with the title-deeds, bills, vouchers and other documents, conform to inventory; and if the meeting be satisfied that the Interim Factor (or Sheriff Clerk acting as Factor) has duly lodged the money 35 and performed his duties, they shall fix his remuneration, and he shall receive payment thereof, and of all advances made by him out of the funds in his hands: and if the Interim Factor (or Sheriff Clerk) be dissatisfied with the sums allowed, the same shall be determined by the Sheriff; but the Interim Factor (or Sheriff Clerk) shall not be 40 entitled, in respect of non-payment thereof or on any other ground, to retain any part of the estate, and he shall be bound forthwith to deliver the estate, books, title deeds, bills, vouchers, and the said state, rental, and all other documents to the Trustee, who shall, if sufficient funds have not been realized by the Interim Factor (or Sheriff

tion of Trus-

Sheriff Clerk), pay the said remuneration and advances out of the first money which shall come into his hands.

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And be it Enacted, Tha any Creditor or Competitor giving notice in writing to the Sheriff Clerk, within Two Days after the date of the Sheriff's deliverance declaring the election of the Trustee, of his intention to appeal against such deliverance, shall be entitled to appeal during Session to the Inner House of the Court of Session, or in vacation to the Lord Ordinary, provided that, in the case of competition, a Bond of Caution for the Competitor, signed by a Cautioner approved of at 10 the said meeting, for election of Trustee, shall along with such notice be lodged with the Sheriff Clerk, and a certificate thereof by the Sheriff Clerk, with a note of appeal against such deliverance, be lodged with and marked by the Clerk of the Bill Chamber within Fourteen Days from the date of such deliverance; and on a copy 15 of such note, certified by one of the Bill Chamber Clerks, being delivered to the Sheriff Clerk, he shall forthwith transmit to the Bill Chamber the minutes of election, together with such of the proceedings as may be required; and the Inner House, or the Lord Ordinary (as the case may be) shall thereupon hear parties 20 vivâ voce, and pronounce judgment, and may order a new election, and appoint a time and place for that purpose; and if the appealing Competitor shall be preferred, a remit shall be made to the Sheriff to confirm him; and no part of the expense of such competition, either before the Sheriff Court or any other court, shall 25 be paid out of the estate, but the expenses shall be ordered to be paid by the unsuccessful party to the successful party.

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56. Appeal not to stop Sequestration.

Interim Factor to continue to act.

And be it Enacted, That no appeal shall have the effect to stop the proceedings in the Sequestration; and the Interim Factor (or Sheriff Clerk, as the case may be) shall continue to act until a 30 Trustee shall be finally confirmed; and on every new election an appeal may be made and other proceedings take place in manner before provided; and the Interim Factor shall deliver to the person confirmed Trustee the estate of the Bankrupt, with the books, titledeeds and other documents in his possession, and account to him for 35 his intromissions; and the Creditors may at any meeting (which, if required, the Trustee shall call) make an allowance to the Interim Factor (or Sheriff Clerk) for his trouble during the period of his administration, subject to review of the Sheriff as aforesaid; and the Trustee shall pay the sum so allowed, and the expenses incurred 40 by the Interim Factor or Sheriff Clerk out of the first of the funds.

Remuneration to In-terim Factor.

57. Election of Commissioners.

And be it Enacted, That at the meeting for election of Trustee, the Creditors present, or their Mandatories, shall, after the election of the Trustee, elect Three Commissioners (if there be so many Creditors who have claimed), who shall be either Creditors or Mandatories of 163. Creditors,

Creditors, and the same proceedings shall take place in regard to their election as is provided in regard to the election of Trustee. (except that they shall not be bound to find security), and the Sheriff shall decide who are the persons duly elected, and declare their election by a deliverance in the Sederunt Book, which shall entitle them to act without further confirmation; and a majority of them shall be a quorum: Provided that no person shall be eligible as a Commissioner who is disqualified to be a Trustee; and any Mandatory who has been elected a Commissioner shall lose that office upon written intimation being sent by his constituent to the Trustee that 10 he has recalled the mandate, and the Trustee shall immediately record the intimation in the Sederunt Book; and the Trustee shall. in all cases where a Commissioner has declined to act, or resigned, or become incapacitated, call a meeting of Creditors for the purpose of electing a new Commissioner, and such Commissioner shall be 15 elected in manner hereinbefore provided.

Disqualification

58. Duties of Commissioners.

And be it Enacted, That the Commissioners shall superintend the proceedings of the Trustee, concur with him in submissions and transactions, give their advice and assistance relative to the management of the estate, examine the acts and intromissions of the 20 Trustee, audit his accounts, decide as to paying or postponing payment of a dividend, fix his remuneration, and may assemble at any time to ascertain the situation of the Bankrupt estate; and any One of them may make such report as he may think proper to a general meeting of the Creditors.

59. Offer of Composition may be made at this Meeting.

Renewal of personal Protection.

And be it Enacted, That at the said meeting for election of a Trustee, or at the meeting held after the examination of the Bankrupt, or at any meeting called for the purpose, an offer of composition may be made to the Creditors in manner hereinafter provided; and the majority in number and value of the Creditors present at 30 these meetings or at any other meetings called for the purpose, may resolve that the personal protection of the Bankrupt ought to be renewed for such time as they may think fit, and in such case the Trustee shall apply to the Sheriff, who shall renew the protection; and the deliverance by him renewing the same, or an extract 35 thereof signed by the Sheriff Clerk, shall have the same effect as the original warrant of protection.

60. Allowance to Bankrupt.

And be it Enacted, That at the said meeting for election of a Trustee, or at the meeting held after the examination of the Bankrupt, or at any meeting called for the purpose, Four-fifths in value of the 40-Creditors present may authorize payment from time to time to the Bankrupt, or to the partners of a Company (if the Sequestration be of a Company estate), of such sum out of the estate as they shall think proper for subsistence until the period assigned for payment of the second.

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second dividend, but such allowance shall not exceed Three Guineas per week to the Bankrupt, or to each individual partner of a Company from the date of the Sequestration to the period aforesaid; and no allowance shall be given if the Bankrupt shall not have complied with the provisions of this Act.

And be it Enacted, That the Trustee, within Twenty-one Days after his election is confirmed, shall present an abbreviate, signed by him or his agent, in the form of Schedule (G. No. 1.) hereunto annexed to the Keeper of the Register of Abbreviates of Adjudications, 10 who shall forthwith record the same, and write and subscribe a certificate on the said abbreviate in the form also specified in the said Schedule (G. No. 2.) and the like proceeding shall take place within Twenty-one Days after the election of each new Trustee shall be con-

firmed.

accumulated.

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61. Entry of Confirmation in Register of Adiudica-

And be it Enacted, That the Trustee shall manage, realize and recover the estate belonging to the Bankrupt wherever situated, and convert the same into money, according to the directions given by the Creditors at any meeting, and if no such directions are given, he shall do so, with the advice of the Commissioners; and he as well

62. Trustee's Duties.

20 as the Interim Factor or Sheriff Clerk acting as Factor, shall lodge all money which he may receive in such Bank as Four-fifths of the Creditors in number and value at any general meeting shall appoint, and failing such appointment in one or other of the following Banks; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the 25 Bank of the British Linen Company, the Commercial Bank of Scotland, or the National Bank of Scotland (provided that the Bank be not one in which the Interim Factor or Trustee shall be an acting partner, manager, or cashier); and the money shall be lodged in the name of the Interim Factor, or Sheriff Clerk, or Trus-30 tee in his official character under this Act, at the highest rate of interest which can be procured for the same; and such Bank shall, once yearly at least, balance the said account, and accumulate the interest with the principal sum, so that both shall thereafter bear interest as principal; and if the Bank fail to do so, such

Money to be lodged in Bank by him and Interim

And be it Enacted, That if either the Interim Factor, or Sheriff Clerk acting as Factor or Trustee, shall keep in his hands more than Fifty Pounds of money belonging to the estate for more than Ten 40 Days, he shall pay a sum to the Creditors at the rate of Twenty Pounds per centum per annum on the excess of the said sum of Fifty Pounds, for such time as it shall be in his hands beyond the said Ten Days; and unless the money has been kept from innocent causes, the Interim Factor or Trustee shall be dismissed from his 163. office C 4

35 Bank shall be liable to account as if such money had been so

63. Twenty per Money not lodged.

office upon petition to the Lord Ordinary by any Creditor, and be liable in expenses, and have no claim to remuneration.

64.
Trustee to keep a Sederunt Book and Accounts, and send copy of Accounts to Clerk.

And be it Enacted, That the Trustee shall keep a Sederunt Book, in which he shall record all minutes of Creditors and of Commissioners, states of Accounts, Reports, and all the proceedings necessary to give a correct view of the management of the estate; and he shall also keep regular Accounts of the affairs of the estate, and transmit to the Bill Chamber Clerk before each of the periods herein assigned for payment of a dividend, a Copy certified by himself of such Accounts, and such copies shall be preserved in the office of 10the said Clerk; and the said Sederunt Book and Accounts shall be patent to the Commissioners, and to the Creditors or their agents at all times: Provided always, That where any document is of a confidential nature (such as the opinion of counsel in regard to any matter affecting the interests of the Creditors on the estate), the 15. Trustee shall not be bound to insert it in the Sederunt Book, or to exhibit it to any other person than the Commissioners, unless he be ordered by competent authority to do so.

65.
Interim
Factor, Sheriff
Clerk,
Trustee and
Commissioners amenable
to Lord Ordinary and
Sheriff.

And be it Enacted, That the Interim Factor, Sheriff Clerk acting as Factor, Trustee and Commissioners shall be amenable to the Lord 20 Ordinary and to the said Sheriff, although resident beyond the territory of the said Sheriff, at the instance of any party interested, to account for their intromissions and management, by petition, served on them; and in case it shall appear that such application ought not to have been made, the party complained of shall be 25 entitled to his full expenses to be either retained out of the funds or recovered from the party complaining, as the Lord Ordinary or the Sheriff shall direct.

66.
Sheriff to appoint day to examine Bankrupt; and Meeting of Creditors to be published.

And be it Enacted, That the Trustee shall within Eight Days after the date of confirmation, apply to the Sheriff to name a day 30 for the public examination of the Bankrupt; and the Sheriff shall issue his warrant for the Bankrupt to attend within the Sheriff Court-house or other convenient place, on a specified day and at a specified hour (being not sooner than Fourteen Days nor later than Twenty-one Days from the date of his warrant), and on the Sheriff 35 granting such warrant, the Trustee shall publish an advertisement, in terms of Schedule (H.) hereunto annexed, in the Edinburgh Gazette, intimating to the Creditors his name and designation, his election as Trustee, the day, hour and place fixed for the examination of the Bankrupt, and also a specified day (being not sooner 40 than Fourteen Days nor later than Twenty-one Days after the day appointed for the examination of the Bankrupt, or in the case of a deceased Debtor not sooner than Fourteen Days nor later than Twenty-one

193

Twenty-one Days from the date of the Trustees' confirmation), and the hour and place for holding a meeting of the Creditors.

67.
Warrant to apprehend Bankrupt for examination.

And be it Enacted, That it shall be competent for the Sheriff to grant warrant to apprehend the Bankrupt, and bring him before the Sheriff for examination; and if the Bankrupt be incarcerated for a debt or other civil obligation, within Scotland, the Sheriff may grant warrant to Magistrates and gaolers, on receiving a duplicate of such warrant, and an acknowledgment for the person of the Bankrupt, to deliver him to the officer presenting the same, and 10 they shall do so accordingly; and the Sheriff may also grant warrant to bring the Bankrupt from the Sanctuary; which warrants shall protect against arrest for debt, or other civil obligation, while under examination, and on the way to and from the place of examination: and shall be sufficient authority, either within or beyond the 15 territory of the said Sheriff, in Scotland, to messengers arms, and to the officers of the said Sheriff, to apprehend. transmit, detain, and incarcerate, and to gaolers to deliver up, receive and detain the Bankrupt until his examination is concluded, and also for his retransmission after examination to the gaol from which he was delivered up, and reincarceration therein; and if the Bankrupt cannot conveniently be brought from gaol or the Sanctuary, or cannot be examined by the Sheriff there, or is by a lawful cause prevented from attending at the time and place appointed, or is in custody on a criminal charge, or is abroad, the 25 Sheriff may grant commission to take the examination; and the Sheriff or Commissioner may, if he shall see cause, adjourn the examination of the Bankrupt to an early time to be then fixed, and the Sheriff may, on the application of the Trustee, order the Bankrupt to be examined as often as he shall see fit; and the examination may, 30 at the discretion of the Sheriff or the Commissioner, be upon oath.

And be it Enacted, That if the Bankrupt be in any part of Great Britain and Ireland other than Scotland, the Lord Ordinary may, on petition by the Trustee, grant warrant, under the seal of the Court of Session, to all Judges, Magistrates, Justices of the Peace and Officers of the law, to apprehend and transmit him to the place of his examination, and to enforce the same, which they are hereby required to do; and if the Bankrupt be in prison or custody, the Lord Ordinary may grant warrant, as aforesaid, to Magistrates and gaolers, upon receiving a duplicate of such warrant, and an acknowledgment for the person of the Bankrupt, to deliver him to the messenger or officer presenting such warrant, which they shall do accordingly; and such warrant shall be sufficient authority for the apprehension, transmission, detention and incarceration of the Bankrupt (where necessary for his safe custody) and for his re-163. transmission

68.
Warrant
where the
Bankrupt is
in England
or Ireland.

transmission after examination to and re-incarceration in the prison or custody from which he was delivered up.

69.
Other persons may be examined, and, if necessary, apprehended.

And be it Enacted, That the Sheriff may at any time, on the application of the Trustee, order an examination of the Bankrupt's wife and family, clerks, servants, factors, law agents and others who can give information relative to his estate, either by declaration or on oath, as to the Sheriff shall seem fit; and issue his warrant requiring such persons to appear; and if they refuse or neglect to appear when duly summoned, the Sheriff may issue another warrant to apprehend the person so failing to appear: 10 Provided that where such person is not the Bankrupt, nor his wife, nor one of his family, nor his clerk or servant, no warrant for apprehension shall be issued until the expiration of Eight Days from the service of the first warrant, unless the Trustee shall on oath specify a reasonable cause of belief that such person intends to 15 leave the country to avoid the examination, in which case the Sheriff may forthwith issue such warrant; which several warrants shall be sufficient to authorize messengers at arms, or the officers of the said Sheriff, to execute the same either within or without the territory of the Sheriff in Scotland as aforesaid; and if any person liable to be 20 examined as aforesaid cannot conveniently attend for examination, the Sheriff may grant commission to take his examination, and such examination, whether by the Sheriff or by a commissioner, may be adjourned, if seen fit, to an early time to be then fixed.

70. Must answer all lawful questions, &c.

And be it Enacted, That the Bankrupt and the said persons shall answer all lawful questions relating to the affairs of the Bankrupt; and the Sheriff may order such persons to produce for inspection any books of account, papers, deeds, writings, or other documents in their custody relative to the Bankrupt's affairs, and cause the same or copies thereof to be delivered to the Trustee: Provided that persons other than the Bankrupt, summoned to attend for examination, shall be entitled to such allowances as witnesses are in other cases entitled to, and the amount of which, if disputed, shall be fixed by the Sheriff.

71. Effect of re-

answer, &c.

fusal to

Parties

entitled to

expenses as Witnesses.

And be it Enacted, That if the Bankrupt, or any of the said persons, shall refuse to be sworn, or to answer, to the satisfaction of the Sheriff, any lawful question put to him by the Sheriff or Trustee, or by any Creditor with the sanction of the Sheriff, or without lawful cause shall refuse to sign his examination, or to produce books, deeds or other documents in his custody or power, relating to the estate, the Sheriff may grant warrant to commit him to prison, there to remain until he comply with the order; which warrant shall specify the question and answer, book, deed, document, or the refusal to swear or to sign the examination; and such

such warrant shall not be subject to the review of the Court of Session, but the Bankrupt or person incarcerated may apply by written petition (without argument) to the Lord Ordinary for a recall of the warrant; and the Lord Ordinary shall order the petition to be served on the Trustee or the said Creditor, and shall thereafter hear parties viva voce, and pronounce judgment.

And be it Enacted, That if any Latent Partner of a Company whose estates have been sequestrated shall not, by intimation to the Interim Factor or Trustee, acknowledge that he is a partner, on or 10 before the day appointed for the examination of the known partners. he shall not be entitled to the benefits or privileges of this Act, unless in an application for the same he satisfy the Lord Ordinary that the omission proceeded from innocent mistake, or ignorance of the proceedings, or reasonable misconception as to his liability as a partner. 15 and unless he shall then follow out all necessary steps for remedying, as far as possible, the loss and inconvenience thence arising.

Latent Partners must disclose themselves.

And be it Enacted, That the Bankrupt, before the close of his examination, may make such additions to or alterations upon the state of his affairs as may have occurred to him to be necessary to 20 give a full view of his affairs, which state, with the additions and alterations, shall be subscribed by the Sheriff and the Bankrupt; and the Bankrupt shall then take the following oath, which shall be engrossed in the Sederunt Book, and subscribed as aforesaid, as relative to the said state; and where the Bankrupt is a partner with 25 others, and examined respecting the affairs of the partnership, the words of the oath shall so far be varied as to make it applicable to the case; and when he is by law entitled to make an affirmation in place of an oath, it shall be sufficient to take his solemn affirmation upon the matters contained in the said oath, which shall be varied 30 accordingly, and be engrossed and subscribed as aforesaid:

73. Bankrupt may correct

"I DO, in the presence of Almighty God, and as I shall answer to Oath. God at the great Day of Judgment, solemnly swear, That the state of my affairs subscribed by me, as relative hereto, contains a full and true account, to the best of my knowledge and belief, of all the debts of whatever nature due to me, and of all my estate and effects, heritable and moveable, real and personal, wherever situated (the necessary wearing-apparel of myself, my wife and family, only excepted), as well as of all claims which I am entitled to make against any person or persons whatsoever, and of all estate in expectancy, or means of whatever kind to which I have an eventual right by contract of marriage, trust-deed, settlement, deed of entail, or otherwise; and that the said state likewise contains a full and true account of all debts due by me, or demands upon

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me;

me; and that I have delivered up the whole books, documents, accounts, title-deeds, and papers of every kind belonging to me which in any way relate to my affairs, and which were or are in my possession or under my power; and that I have made a full disclosure of every particular relating to my affairs: And further I promise and swear, That I will forthwith reveal all and every other circumstance or particular relative to my affairs which may hereafter come to my knowledge, and which may tend to increase or diminish the estate in which my Creditors may be interested, directly or indirectly.

So help me GOD."

74.
Trustee to prepare
Report, and
Meeting to be held after
Bankrupt's examination.

And be it Enacted, That within Fourteen Days after the examination of the Bankrupt, the Trustee shall prepare a Report, setting forth the state of the Bankrupt's affairs, and an estimate of what it may produce, which Report he shall exhibit at the meeting of the Creditors to be held after the examination of the Bankrupt; and give all explanations relative thereto; and the Creditors assembled at such meeting may receive any offer of composition as hereinafter provided, and may, either at this or any other meeting called for the purpose, give directions for the recovery, management and disposal of the estate; and where any part of the estate consists of land or other heritable subjects, it shall be optional to the Creditors to determine whether the Trustee is to bring the said heritable estate to judicial sale, or to dispose thereof by voluntary public sale.

75. • Meetings may be called at any time.

And be it Enacted, That the Trustee or any Commissioner may at any time call a meeting of the Creditors, and the Trustee shall call such meeting when required by One-fourth in value of the Creditors ranked on the estate.

76. Advertisements of Meetings.

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And be it Enacted, That wherever it is in this Act directed that a meeting of Creditors shall or may be called or held, a Notice of the day, hour, place and purpose of the meeting shall be advertised in the Edinburgh Gazette Fourteen Days at least before the day of the meeting (except in the case of the meeting for the election of Interim Factor), and such meeting may be adjourned to the following day.

77.
To what
Creditors
Notices
through Post
Office not to
be sent.

And be it Enacted, That it shall not in any case be necessary to send any notification, as is by this Act directed to be sent, by post to any Creditor whose debt shall be under Twenty Pounds, unless such Creditor shall have given directions in writing that such notification shall be sent; and no notification shall be sent to any Creditor who has directed that none shall be sent.

Removal or resignation of

to gross?

And be it Enacted, That a majority in number and value of the Creditors present at any meeting to be called by an advertisement published

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published in the Edinburgh Gazette at least Fourteen Days before such meeting, specifying the purpose of the meeting, may remove the Trustee or accept of his resignation; and One-fourth of the Creditors in value may at any time apply by petition to the Lord Ordinary for removal of the Trustee; and the Lord Ordinary shall order the said petition to be served on the Trustee, and intimated in the Edinburgh Gazette: And if the Lord Ordinary shall be satisfied that sufficient reason has been shown, he shall remove the Trustee, and appoint a meeting of the Creditors to be held for devolving the estate on the Trustee next in succession, or electing a new Trustee: And if the Trustee shall die, resign, or be removed, or remain at any one time for Three Months furth of Scotland, any Commissioner, or any Creditor ranked, or claiming and entitled to be ranked, on the estate, may apply to the Sheriff for an order to 15 hold a meeting for devolving the estate on the next Trustee in succession, or electing a new Trustee; and the Sheriff shall grant warrant to hold such meeting at a certain time and place, which shall be advertised in the Edinburgh Gazette by the Commissioner or Creditor so applying; and at the time and place so appointed, 20 the Creditors at such meeting may devolve the estate on the Trustee next in succession, or elect a new Trustee; and where the estate is devolved on such Trustee, the said Creditors shall fix the amount for which he shall find security, and on a bond being lodged the Sheriff shall confirm him, and an act and warrant shall be issued 25 and recorded in the same way and to the same effect as on the first election of a Trustee; and in like manner in all cases of a new election of a Trustee, the procedure shall take place in the same way as is hereinbefore provided for the case of the first election; and the succeeding or the new Trustee shall be vested with the powers, and 30 shall perform the duties, and be subject to the same rules as are herein before provided, and shall call to account the former Trustee or his heirs and representatives.

And be it Enacted, That the moveable estate and effects of the Bankrupt, wherever situated, so far as attachable for debt, shall, by virtue of the act and warrant of confirmation in favour of the Trustee, be transferred to and vested in him or any succeeding Trustee for behoof of the Creditors, absolutely and irredeemably as at the date of the Sequestration, with every right, title, and interest which was then in the Bankrupt, to the same effect as if actual delivery or possession had been obtained, or intimation made at that date, subject always to such preferable securities as existed at the date of the Sequestration, and are not null or reducible.

And be it Enacted, That the whole heritable estates belonging to the Bankrupt in Scotland shall, by virtue of the said act and warrant be transferred to and vested in the Trustee or any succeeding 163.

79-Vesting of the moveable Estate in the Trustee.

80.
Vesting of he heritable Estate in the Crustee.

Trustee for behoof foresaid, absolutely and irredeemably, as at the

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date of the Sequestration, with all right, title and interest which was then in the Bankrupt, to the same effect as if a decree of adjudication in implement of sale, as well as a decree of adjudication for payment and in security of debt, subject to no legal reversion, had been pronounced in favour of the Trustee, and recorded at the date of the Sequestration, and as if a poinding of the ground had then be en executed, subject always to such preferable securities as existed at the date of the Sequestration, and are not null and reducible, and the Creditors' right to poind the ground as hereinafter provided; and the right 10 of the Trustee shall not be challengeable on the ground of any prior inhibition (saving the effect which such inhibition may be entitled to in the ranking of the Creditors): Provided always, That such transfer and vesting of the heritable estate shall have no effect upon the rights of the superior, nor upon any question of succession between the 15 heir and executor of any Creditor claiming on the sequestrated estate, nor upon the rights of the Creditors of the ancestor (except that the act and warrant of confirmation shall operate in their favour as complete diligence); and if the right to any part of the Bankrupt's heritable estate be entailed or otherwise limited, the right vested in 20 the Trustee shall be effectual only to the extent of the interest in the estate which the Bankrupt might legally convey, or which the Creditors might validly attach.

Limitations and qualifications of the Trustee's right.

81. Estates in England, Ireland and other British dominions.

And be it Enacted, That all lands, tenements and hereditaments in England, Ireland or in any of Her Majesty's dominions, to which the Bankrupt is entitled, and all interest to which he is entitled in any such lands, tenements or hereditaments, and of which he might. according to the laws of England, Ireland, or other Her Majesty's dominions, have disposed, and all such lands, tenements and hereditaments which he shall purchase, or which shall descend, be devised, revert to, or come to the Bankrupt before he shall have obtained his discharge, and all deeds, papers and writings respecting the same, shall, by virtue of the act and warrant of confirmation, vest in and belong to the Trustee for the purposes of this Act, as at the date of the Sequestration: Provided that where, according to the laws of England, Ireland or other Her Majesty's dominions, any deed or conveyance would require registration, enrolment, or recording, the act and warrant of confirmation shall be so registered, enrolled or recorded according to the laws of England, Ireland or other Her Majesty's dominions; and if any purchase is made by any person for valuable consideration, and without notice of the Sequestration, prior to the registration, enrolment, or recording of the said act and warrant of confirmation, such purchase shall not be invalidated by the existence of such act and warrant, or the subsequent registration, enrolment, or recording thereof.

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after the Sequestration to belong to the

And be it Enacted, That if any estate, wherever situated, shall, after the date of the Sequestration, and before the Bankrupt has obtained his discharge, be acquired by him, or descend or come to him, the same shall ipso jure fall under the Sequestration, and the full right and interest accruing thereon to the Bankrupt shall be held as transferred to and vested in the Trustee as at the date of the acquisition thereof or succession for the purposes of this Act; and the Trustee shall, on coming to the knowledge of the fact, present a petition setting forth the circumstance 10 to the Lord Ordinary, who shall appoint intimation to be made in the Edinburgh Gazette, and require all concerned to appear within a certain time for their interest; and after the expiration thereof, and no cause shown to the contrary, the Lord Ordinary shall declare all right and interest in such estate which belongs to the Bankrupt to 15 to be vested in the Trustee, as at the date of the acquisition thereof or succession thereto, to the same effect as is hereinbefore enacted in regard to the other estates; and the proceeds thereof when sold shall be divided in terms of this Act; and if the Bankrupt do not immediately notify to the Trustee that such estate has been acquired 20 or has come to him as aforesaid, he shall forfeit all the benefits of this Act, and it shall be competent to the Trustee to examine him as aforesaid in relation thereto: Provided always, That the rights of the Creditors of the person from whom such estate shall come or descend to the Bankrupt shall be reserved entire.

83. equivalent to an Adjudicapetition.

And be it Enacted, That the Sequestration shall, as at the Sequestration date thereof, be equivalent to a decree of adjudication of the heritable estates of the Bankrupt for payment of the whole debts of the Bankrupt, principal and interest, accumulated at the said date, and when it is dated within year and day of any effectual adjudication, the estate shall be disposed of under the Sequestration, according to the provisions of this Act: Provided always. That nothing herein contained shall affect the rights of any heritable Creditor holding a power of sale preferable to the Trustee.

> estment and Poinding. Sixty Days before Sequesafter it ineffectual.

And be it Enacted, That the Sequestration shall, as at the date thereof, be equivalent to an arrestment in execution and decree of forthcoming, and to an executed or completed poinding; And no arrestment or poinding executed of the funds or effects of the Bankrupt on or after the Sixtieth Day prior to the Sequestration, or executed after the date of the Sequestration shall be effectual; and such funds or effects or the proceeds of such effects, if sold, shall be made forthcoming to the Trustee: Provided that Expenses of the arrester or poinder, before the date of the Sequestration, who shall be thus deprived of the benefit of his diligence, shall have preference out of such funds or effects for the expense bonâ fide incurred by him in such diligence.

Diligence.

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And

85. Preferences in case of Debtor.

And be it Enacted, That where the Sequestration of the estates of a deceased Debtor is dated within Seven Months after his death, any preference or security for any prior debt acquired by legal diligence on or after the Sixtieth Day before his death, or subsequent to his death, and any preference or security acquired for a prior debt by any act or deed of the Debtor, which has not been lawfully completed more than at least Sixty Days before his death, and any confirmation as Executor Creditor after the Debtor's death, shall in these several cases be of no effect in competition with the Trustce; and the estates and effects over which such preferences or securities shall have 10 been obtained, or of which confirmation shall have been expede, shall belong to the Trustee: Provided always, That the Creditor who is so deprived of the benefit of his diligence or confirmation, shall have preference for payment out of the said estates or effects of the expenses bonâ fide incurred by him in such diligence or 15 confirmation.

86. Acts and Payments by Bankrupt after Seques tration null. except in ocrtain cases

And be it Enacted, That all payments and preferences obtained by or granted to prior Creditors, and all acts done or deeds granted by the Bankrupt after the date of the Sequestration and before his discharge out of or in relation to the estate (unless with the consent 20 of the Interim Factor or Trustee) shall in the event of Sequestration being awarded be null and void; and the Trustee shall be entitled to such preference and to any money after such date, so paid, deducting any expense bonâ fide incurred; but if a bonâ fide purchaser is in possession of moveable effects received from the Bankrupt after the Sequestration, and when ignorant thereof, for a price paid, or which he is ready to pay, he shall not be obliged to restore the effects; and if a Debtor, when ignorant of the Sequestration, have paid his debt bonâ fide to the Bankrupt, he shall not be obliged to pay it a second time to the Trustee, and if the possessor of any bill or promissory note with recourse on other parties, which is payable by the Bankrupt, or of a security for a debt due by the Bankrupt, shall have received payment of his debt from the Bankrupt in ignorance of the Sequestration, and given up such bill, promissory note or security to the Bankrupt, such person shall not be liable to repay to the Trustee the amount so received unless the Trustee shall replace him in the situation in which he stood, or reimburse him for any loss or damage.

87. Subjects improperly included in Sequestration may be struck out.

And be it Enacted, That any person claiming right to any estate included in the Sequestration may present a Petition to the Lord Ordinary, praying to have such estate struck out of the Sequestration; and the Lord Ordinary shall order the Trustee to answer within a certain time, and on expiration of such time he shall proceed to dispose of the application.

And

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88.
Trustee may complete feudal Titles, or grant such Rights as

could do.

And be it Enacted, That the Bankrupt shall, if required, grant all deeds necessary for recovering and feudally vesting his estates in the Trustee for the purposes of this Act; and if the Bankrupt's title to any estate has not been completed, the Trustee may complete 5 titles in his own person, whom failing in favour of any Trustee who may succeed him, for behoof of the Creditors, or in the person of the Bankrupt; and superiors shall, if required, enter the Trustee, or the purchaser from him, in terms of law; and the Trustee may, without making up a feudal title in his person, and without concur-10 rence of the Bankrupt, grant conveyances of the heritable estate belonging to the Bankrupt, with such procuratories, precepts or other warrants as the Bankrupt might competently have granted, which conveyances shall be as effectual to the purchaser as if they had been granted by the Bankrunt with concurrence of the Trustee, 15 and shall not be affected by any inhibition against the Bankrupt, reserving the effect of such inhibition in the ranking.

89.
Trustee may get Property transferred to him, although Heir of Bankrupt has made up Titles.

And be it Enacted, That where Sequestration is awarded against the estate of a person after his death, and his successor has made up a title to his heritable estate, the Trustee may apply by petition to 20 the Lord Ordinary, praying that such estate shall be transferred to and vested in him; and the Lord Ordinary shall order the petition to be served upon such successor, and require him to answer the same within Fourteen Days; and an abbreviate of such petition and deliverance, in terms of the Schedule (B. No. 3), being recorded in the 25 Register of Inhibitions kept at Edinburgh, it shall have the effect of an Inhibition; and the keeper thereof shall write on the said petition a certificate, in terms of the said Schedule (B. No. 2); and if on expiration of that period no cause is shown to the contrary, the Lord Ordinary shall declare such estate to be transferred to and 30 vested in the Trustee as at the date of the Sequestration, to the same effect as is hereinbefore provided, in regard to the act and warrant of confirmation; and the Trustee shall within Eight Days thereafter cause an abbreviate of such petition and deliverance to be recorded in the Register of Abbreviates of Adjudications, in terms of 35 the Schedule (G. No. 3) hereto annexed; and the keeper of the said Register shall write on such abbreviate a certificate, in terms of the said Schedule (G. No. 2).

Decree to be recorded in Register of Adjudications.

And be it Enacted, That if the Creditors at the meeting held after the examination of the Bankrupt, or at any other meeting called for the purpose, resolve that the Trustee shall dispose of the heritable estate by public sale, or bring it to judicial sale, and if such resolution has been made before a Creditor holding a power of sale shall have commenced proceedings for sale, or if such proceedings, after being commenced prior to the date of such resolution.

Gircumstances in which Heritable Creditors not to interfere with Sale by Trustee. tion, have thereafter been unduly delayed, such Creditor shall not be entitled to interfere with the sale by the Trustee.

91. Public Sale of Heritable Subjects;

Effect on Securities.

And be it Enacted, That if a public sale of the heritable estate be resolved on, such sale shall be made by auction at the upset price, and in the manner which shall be fixed by the Trustee, with consent of the Commissioners; and if the estate be sold, the Trustee, with consent of the Commissioners, shall grant a disposition to the purchaser, which shall have the effect of conveying whatever right is in the Trustee, under burden of the securities preferable to the right of the Trustee, but shall discharge the estate of all securities 10 not preferable to the right of the Trustee, and of all diligence not completed at the date of the Sequestration.

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Heritable Creditor may allow Trustee to sell.

And be it Enacted, That if a Creditor holding an heritable security, with a power to sell, concur with the Trustee in bringing the estate to sale, the Trustee shall sell the same in his own name, 15 and the articles of roup and conveyance to the purchaser shall be executed by the Trustee, with consent of the said Creditor and the Commissioners, and the price shall be paid by the purchaser to the parties legally entitled thereto, and, in so far as not paid at the time of the delivery of the conveyance, it shall be consigned in the bank 20 in which the money of the sequestrated estate is deposited; which payment or consignation of the price shall free and discharge the estate sold and the purchaser from all securities preferable to that of the said consenting Creditor, in so far as the debts in such securities are satisfied by such payment or consignation, and also from the 25 security of the consenting Creditor, whether the debt in such security be satisfied or not, and from all securities postponed to the security of such Creditor.

Heritable Creditor, with power to sell, may sell.

And be it Enacted, That a Creditor who holds an heritable security preferable to the right of the Trustee, with a power to sell, may sell in terms of his Bond, notwithstanding the Sequestration; and it shall be competent to the Trustee to concur therein, in order to fortify the title; and the Trustee, or any posterior heritable Creditor preferable to him may, by petition to the Lord Ordinary or to the Sheriff, compel the Creditor and the purchaser to account 35 for any reversion of the price.

94. Judicial Sale.

And be it Enacted, That if the Creditors assembled as aforesaid shall resolve on a judicial sale, the Trustee shall institute such an action, which may be carried on as to a part or the whole of the estate, and without any other proof of Bankruptcy than the act of Sequestration; and every heritable Creditor in possession shall be cited upon induciæ of Fifteen Days, whether within Scotland or not, and it shall not be necessary to call any other parties; and on the estate being

Disposal of Price.

being sold, the price, after satisfying any securities preferable to the right of the Trustee, shall be paid by the purchaser to the Trustee; and the purchaser shall, upon payment of the price, receive a discharge from the Trustee, which, with the decree of sale, shall free and discharge the estate in the same way as a decree of sale in an action of ranking and sale.

And be it Enacted, That no part of the expenses of the Sequestration, nor of the sale in any way of the heritable estate, nor of the Trustee's Commission, shall be payable out of such part of the price as may be necessary to discharge the securities on the heritable estate preferable to the right of the Trustee; and no heritable Creditor, or Creditor preferable to the Trustee on the heritable estate, shall be liable for the expense of the Sequestration, or the Trustee's commission, nor of such sale, unless he shall have consented to the sale, 15 in which case he shall be liable for the expense of the sale.

95. Expenses Heritable Creditors

And be it Enacted, That no pointing of the ground which has not been carried into execution by sale of the effects at least Sixty Days before the date of the Sequestration, and no decree of mails and duties on which a charge has not been given at least 20 Sixty Days before the said date, shall (except to the extent hereinafter provided) be available in any question with the Interim Factor or Trustee: Provided always, That no Creditor who holds a security over the heritable estate preferable to the right of the Trustee shall be prevented from executing a poinding of the 25 ground, or obtaining a decree of mails and duties after the Sequestration; but such poinding or decree shall, in competition with the Trustee, be available only for the interest on the debt for the current term, and for the arrear of interest for One Year immediately before the commencement of such term.

06. Heritable Creditor's poind the Ground limit-

And be it Enacted, That nothing herein contained shall affect Landlord's the landlord's right of hypothec.

Hypothec saved.

And be it Enacted, That the Lord Ordinary or Sheriff, on cause shown, may order that, for a period not exceeding Three Months from the date of the order, all letters addressed to the Bankrupt 35 shall be delivered by the Postmaster General, or the officers acting under him, to the Interim Factor or Trustee, to be opened in presence of the Sheriff, after written notice to the Bankrupt to attend, if within Scotland; and in case the letters shall relate in whole or in part to the estate, they shall be placed in such custody as the Sheriff may direct; and the Lord Ordinary or Sheriff may, on cause shown, renew such order for a like period as often as shall be necessary.

98. Interim Facmay be authorized to receive and open Post Letters.

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And

99.
Trustee and
Commissioners may
submit and
transact.

And be it Enacted, That the Trustee may, with consent of the Commissioners, compound, and transact, or refer to arbitration any questions which may arise in the course of the Sequestration regarding the estate, or any demand or claim made thereon, and the compromise, transaction or decree-arbitral shall be binding on the Creditors and the Bankrupt.

100. Creditors may purchase.

And be it Enacted, That where any estate is sold by virtue of this Act, it shall be lawful for any Creditor to purchase the same; but the Interim Factor, Sheriff Clerk if acting as Factor, Trustee or Commissioners, shall not be entitled to purchase.

101.
Realized
Estate to be
a Fund of
Division.

And be it Enacted, That the whole estate when reduced into money shall, after paying all necessary charges and a commission to the Trustee, be divided among those who were Creditors of the Bankrupt at the date of the Sequestration, ranked according to their several rights and interests.

102.
Times at which Dividends to be paid.

And be it Enacted, That where there are sufficient funds realized, the first dividend shall be payable on the first lawful day after the expiration of Eight Months from the date of the Sequestration; and the second dividend shall be payable on the first lawful day after the expiration of Twelve Months from the said date of the Sequestration; 20 and a dividend shall be payable on the first lawful day after the expiration of Four Months from the date of the payment of the immediately preceding dividend, until the whole funds of the Bankrupt be distributed, subject always to the provisions hereinafter made.

103.
Time within which Creditors to produce oaths, &c., in order to receive payment of Dividends

And be it Enacted, That to entitle any Creditor to payment of 25 the first dividend, he shall produce, as hereinbefore directed, his oath and grounds of debt at least Two Months before the time fixed for payment of the first dividend: And to entitle any Creditor to payment of the second dividend, he shall produce as aforesaid his oath and grounds of debt at least Two Months before the time 30 fixed for payment of the second dividend: And to entitle a Creditor to payment of any of the subsequent dividends, he shall produce as aforesaid his oath and grounds of debt at least Two Months before the day fixed for payment of the dividend which he means to claim: Provided, that if a Creditor has not produced his oath and 35 grounds of debt in time to share in the first dividend, but has done so in time to share in the second dividend, he shall be entitled, on occasion of payment of the second dividend, to receive out of the first of the fund (if there be sufficient for that purpose) a sum equal to the dividend he would have drawn, if he had claimed in 40 time for the first dividend; and the same rule shall apply as to all subsequent dividends.

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And be it Enacted, That immediately on the expiration of Six Months from the date of the Sequestration, the Trustee shall proceed to make up a state of the whole estate of the Bankrupt, of the funds recovered by him, and of the funds outstanding (specifying the cause why they have not been recovered), and of his intromissions, and generally of his management; and within Fourteen Days after the expiration of the said Six Months, the Commissioners shall meet and examine the said state, and ascertain whether the Trustee has lodged the monies recovered by him in Bank or not, and if he has failed to do so, they shall debit him with a sum at the rate of Twenty Pounds on every Hundred Pounds not so lodged, and so after that rate on any larger or smaller sum, being not less than Fifty Pounds; and they shall audit his accounts, and settle the amount of his commission, and authorize him to take credit for such commission in his accounts with the estate; and they shall certify, by a writing under their hands engrossed in the Sederunt Book, the balance due to or by the Trustee in his account with the estate as at the expiration of the said Six Months; and they shall declare whether any and what part of the net produce of the estate, after making a reasonable de-20 duction for future expenses, shall be divided among the Creditors.

104. First Dividend. Trustee to exhibit to Commissioners State of Funds.

Commissioners to resolve as to payment of Dividend,

And be it Enacted, That if a dividend is to be made, the Trustee shall also within the said Fourteen Days, examine the oaths and grounds of debt, and in writing reject or admit them, or require further evidence in support thereof; and in case he shall reject any 25 claim, he shall in his deliverance state the grounds of such rejection; and he shall complete the list of the Creditors entitled to draw a dividend, specifying the amount of their debts, with interest thereon to the date of the Sequestration, and distinguishing whether they are ordinary Creditors, or preferable or contingent; and he shall make up a separate list of any Creditors whose claims he has rejected in whole or in part.

Trustee to make up List of Creditors

entitled or not entitled to ayment of payment of Dividend.

And be it Enacted, That the Trustee shall give notice in the Edinburgh Gazette published next after expiration of the said Fourteen Days, of the time and place of the payment of the dividend, and also notify the same by letters put into the Post Office on or before the first lawful day after the said Fourteen Days, addressed to each Creditor, in which he shall specify the amount of the claim and dividend thereon; and where he has rejected any claim, he shall notify the same to the claimant by letter as aforesaid, which shall also contain a copy of his deliverance, and specify the amount of the claim and the dividend to which the rejected claimant would be entitled if not rejected, or as near to the amount thereof as circumstances will permit; and a Certificate by the Trustee, or an execution by a messenger or Sheriff officer that such letters have been put into the Post Office, shall be 163. su fficient

106. And to publish and send Notices of pay-ment of Divi-dend.

Creditors may appeal within a limited period.

sufficient evidence thereof: And if any Creditor be dissatisfied with the decision of the Trustee, he may appeal by a short written note to the Lord Ordinary or to the Sheriff; but if no such note be lodged with and marked by the Bill Chamber or Sheriff Clerk (as the case may be) before the expiration of Thirty Days from the date of the publication in the Gazette of the said notice, the decision of the Trustee shall be final and conclusive, so far as regards that dividend; and in case the claim have been rejected, such decision shall be without prejudice to any new claim being afterwards made in reference to future dividends, but which new claim shall not disturb prior dividends.

107. Trustee to make up Scheme of Division.

And be it Enacted, That the Trustee shall, before the expiration of Eight Months from the date of the Sequestration, make up a scheme of division of the fund directed by the Commissioners to be divided, and apportion the same, according to their respective rights, 15 among those Creditors whose claims have been sustained by him or by the Lord Ordinary or Sheriff, or who shall have appealed against his decision, and which scheme shall be patent to all concerned.

Dividends to be paid, and those disputed or claimed by contingent Creditors to be lodged in Bank.

And be it Enacted, That on the said first lawful day after expiration of Eight Months from the date of Sequestration, and at the 20 place appointed, the Trustee shall pay to the Creditors the dividends allotted to them respectively in terms of the said scheme; and he shall lodge the dividends apportioned to those claims which are under appeal, but not finally determined, and the dividends effeiring to contingent Creditors, or other claimants not then entitled to 25 uplift the same, in the Bank appointed by the Creditors, or, failing such appointment, in one of the said Banks in a separate account, or if the money be deposited in Bank he shall transfer it to a separate account, in name of himself and the Commissioners, to remain therein until the said appeals be disposed of, or the dividends are 3 payable.

109. Second Dividend.

Trustee to make up State, &c. and Commissioners to resolve as in ease of first Dividend.

And be it Enacted, That on the expiration of Ten Months from the date of Sequestration, the Trustee shall again make up a state as hereinbefore provided, which he shall within Fourteen Days after the expiration of the said Ten Months exhibit to the Commissioners, who shall meet and adjust the state, and perform the other acts and duties incumbent on them in manner before specified, and direct a second dividend to be paid, if there shall be funds to pay the same; and if the Commissioners shall direct a dividend to be paid, the Trustee shall also make up lists of the Creditors who are entitled and who are not entitled to payment of the dividend, and frame a scheme of division, and notify in the Gazette and by letters, and any Creditor may appeal, all as is hereinbefore provided for the first dividend.

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110. Dividend to be paid.

And be it Enacted, That on the said first lawful day after the expiration of Twelve Months from the date of Sequestration, the Trustee shall make payment of the second dividend to those Creditors who are entitled to, and shall lodge the dividends disputed or not then payable, all as hereinbefore provided for the first dividend.

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And be it Enacted, That the like procedure shall be followed out as to subsequent dividends at similar intervals of time thereafter, in order that a dividend may be made on the first lawful day after the expiration of every Four Months from the day of payment of the immediately preceding dividend, until the whole funds of the Bankrupt shall be divided.

111.
Subsequent
Dividends.
Same proceedings as in
prior Dividends.

And be it Enacted, That if it shall appear to the Commissioners that a dividend ought to be postponed, they may do so till the recurrence of another stated period for making a dividend, and they shall authorize the Trustee to give a notice to that effect in the next Edinburgh Gazette; provided that notwithstanding such postponement the state of the funds shall be made up, and the accounts of the Trustee audited at the time and in the manner before directed; and circulars containing a copy or abstract of the said state shall be sent by post to the Creditors, unless the Commissioners shall otherwise direct.

Proceedings when Commissioners postpone the Dividend.

And be it Enacted, That if, on the lapse of Twelve Months from the date of Sequestration, it shall appear to the Trustee and Commissioners expedient to sell the heritable or moveable estates not disposed of, and 25 any interest which the Creditors have in the outstanding debts and consigned dividends, they shall fix a day for holding a meeting of the Creditors to take the same into consideration; and the Trustee besides advertizing the same in the Edinburgh Gazette shall Fourteen Days before the day appointed, send by post to each Creditor claiming on the estate a notice of the time and place of the meeting, with a valuation of the estate and effects, and a list of the outstanding debts and of the consigned dividends; and if Threefourths of the Creditors in value assembled at the meeting shall decide in favour of a sale in whole or in lots, the Trustee shall 35 cause the same to be sold by auction, after notice thereof published at least Once in the Edinburgh Gazette One Month previous to the sale, and in such other newspapers as the Creditors at the meeting shall appoint.

113. Winding up of Estate.

And be it Enacted, That at the meeting for election of Trustee, the Bankrupt, or his friends, or, in case of his decease, his successors, and, in case of a Company, one or more of the partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if the majority of the Cre
163.

E 4 ditors

Discharge of Bankrupt on Composition.

Offer may be made at the Meeting for election of Trustee.

ditors in number, and Nine-tenths in value present at such meeting shall resolve that the offer and security shall be entertained for consideration, the Trustee shall forthwith advertise in the Edinburgh Gazette a notice that an offer of composition has been so made and entertained, and that it will be decided upon at the meeting to be held after the examination of the Bankrupt, and shall specify the hour, day and place, and also transmit, by post, letters to each of the Creditors claiming on the estate, or mentioned in the Bankrupt's state of affairs, containing a notice of such resolution, and of the day and hour at which, and the place where the said meeting is to be held, and specifying the offer and security proposed, and giving an abstract of the state of the affairs and of the valuation of the the estate, so far as the same can be done to enable the Creditors to judge of the said offer and security.

And be it Enacted, That if, at the meeting held after the 15.

Offer, if entertained, to be disposed of at the meeting after the Bankrupt's examination.

examination of the Bankrupt, a majority in number, and Ninetenths in value of the Creditors there assembled shall accept the said offer and security, a Bond of Caution for payment of the composition executed by the Bankrupt, or his successors (as the case may be), and the proposed Cautioner, shall be forthwith lodged 20. in the hands of the Trustee; and the Trustee shall thereupon subscribe and transmit a report of the resolution of the meeting, with the said bond, to the Bill Chamber Clerk or Sheriff Clerk, in order that the approval of the Lord Ordinary or Sheriff (whichever may be selected by the Trustee) may be obtained thereto; and if the 25 Lord Ordinary or the Sheriff, after hearing any objections by Creditors, shall find that the offer, with the security, has been duly made, and is reasonable, and has been assented to by a majority in number, and Nine-tenths in value, of all the Creditors assembled at the said meeting, he shall pronounce a deliverance 30approving thereof; provided that he shall hear any objection by opposing Creditors; and if he shall refuse to sustain the offer or reject the vote of any Creditor, he shall specify the grounds of refusal or rejection.

LordOrdinary or Sheriff to approve.

Offer on Composition may also be made at Meeting after Bankrupt's examination.

And be it Enacted, That in like manner at the meeting held after the examination of the Bankrupt, or at any subsequent meeting called for the purpose by the Trustee, with the consent of the Commissioners, the Bankrupt or his friends, or, in case of his decease, his successors, and, in the case of a Company, one or more of the partners thereof, may offer a composition to the Creditors on the whole debts, with security for payment of the same; and if a majority in number and Four-fifths in value of the Creditors present shall resolve that the offer and security shall be entertained for consideration, the Trustee shall call another meeting, to be held at as specified

a specified hour on a specified day, being not less than Twenty-one Days thereafter, and at a specified place; and shall, Fourteen Days at least before such other meeting, advertise a notice of the same in the Edinburgh Gazette, and send by post letters addressed to each of the Creditors who have claimed on the estate, or are mentioned in the Bankrupt's state of affairs, which letters shall contain a notice of such resolution, and of the hour, day and place, and purpose of the meeting, and specify the offer and the security proposed, and give an abstract of the state of the affairs and valuation of the estate, so far as can be done, to enable the Creditors to judge of the said offer; and if, at the meeting so called, a majority in number and Four-fifths in value of the Creditors present shall accept the said offer and security, a Bond of Caution shall be lodged, and a report made, and a deliverance pronounced, all in the same manner and to the same effect as is hereinbefore provided.

And be it Enacted, That on such deliverance being pronounced approving of the composition in either of the cases above specified, the Bankrupt shall make a declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or the Sheriff 20 (as the case may be) that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, or made or promised any payment, or entered into any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor to the said offer and security; and if the Bankrupt shall 25 be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, or is by a lawful cause prevented from appearing before the Lord Ordinary or Sheriff, commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or the Sheriff (as the case may be) on being satisfied with the said 30 oath or declaration, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the Sequestration, and shall declare the Sequestration to be at an end, and the Bankrupt re-invested in his estate (reserving always the claims of the 35 Creditors for the said composition against him and the Cautioner); and the Bond of Caution shall be recorded in the Books of the Court of Session, or, when the said deliverance is pronounced by the Sheriff, in the books of the Sheriff Court, and an extract thereof, signed by the Sheriff Clerk, shall forthwith be transmitted to the Clerk of 40 the Bill Chamber, who shall present the same to the Lord Ordinary, and the Lord Ordinary shall confirm the same, and the said deliverance of the Lord Ordinary, and the deliverance of the Sheriff when confirmed as aforesaid, shall operate as a complete discharge and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and Her Majesty's other 163. dominions;

Bankrupt, on making Declaration or Oath, to obtain Dis-



dominions; and an entry thereof shall be made by the Bill Chamber Clerk in the Register of Sequestrations.

118. Trustee s Accounts to be audited, before the Composition be approved of.

And be it Enacted, That before the Lord Ordinary or the Sheriff shall pronounce the deliverance approving of the composition, the Commissioners shall audit the accounts of the Trustee, and ascertain the balance due to or by him, and fix the remuneration for his trouble, subject to the review of the Lord Ordinary or the Sheriff, if complained of by the Trustee, the Bankrupt, or any of the Creditors; and the expense attending the Sequestration and such remuneration shall be paid or provided for, to the satisfaction of the Trustee and 10 Commissioners, before the said deliverance is pronounced.

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110 Sequestration to go on, notwithstanding offer of Composition. On approval, Sequestration to cease.

And be it Enacted, That notwithstanding such offer of composition and proceedings consequent thereon, the Sequestration shall continue, and the Trustee shall proceed in the execution of his duty as if no such offer had been made, until the said deliverance by the 15 Lord Ordinary be pronounced, when the Sequestration shall cease and be at an end, and the Trustee be exonered and discharged: Provided nevertheless, That the Trustee and his Cautioner shall be liable, on petition to the Lord Ordinary or Sheriff, by the Bankrupt or his Cautioner for the composition, to account for his 20 intromissions and other acts as Trustee.

120. Bankrupt and Cautioner not to be entitled to object to Claims, &c.

And be it Enacted, That neither the Bankrupt nor the Cautioner for the composition shall be entitled to object to any debt which the Bankrupt has given up in the state of his affairs as due by him, or admitted without question to be reckoned in the acceptance of the 25 said offer of composition; nor to object to any security held by any Creditor; unless in the offer of composition such debt or security shall be stated as objected to, and notice in writing given to the Creditor in right thereof.

121. Claimsagainst Cantioner limited in certain cases to Two Years.

And be it Enacted, That no person who has not produced an oath as a Creditor before the date of the said deliverance approving of the composition shall be entitled to make any demand against the Cautioner after the space of Two Years from the date of such deliverance, reserving to such Creditor his claim for the composition against the Bankrupt and his estate.

122 If offer of Composition rejected, no other to be entertained, unless Ninetenths of Creditors ranked ngree,

And be it Enacted, That if an offer of composition have been made and rejected, or have become ineffectual, no other offer of composition shall be entertained unless Nine-tenths in number and value of all the Creditors ranked on the estate shall assent in writing to such offer; which offer shall state the amount of composition and 40 the terms of payment, and be subscribed by the Cautioner proposed, in which case a meeting shall be called by the Trustee for finally disposing

disposing of the same; and if, at the meeting so called, a majority in number and Nine-tenths in value of the Creditors present shall accept the said offer and security, and the same shall be assented to by Nine-tenths in value of all the Creditors who have produced oaths as aforesaid, a Bond of Caution shall be lodged, and a report made, and deliverances pronounced, and the other proceedings shall take place and have effect in the same manner as is hereinbefore provided for other offers of composition.

And be it Enacted, That the Bankrupt may, at any time after the 10 meeting held after his examination, petition the Lord Ordinary or the Sheriff to be finally discharged of all debts contracted by him before the date of the Sequestration, provided that every Creditor who has produced his oath as aforesaid shall concur in the petition; and the Bankrupt may also present such petition on the expiration 15 of Eight Months from the date of the Sequestration, provided a majority in number and Four-fifths in value of the Creditors who have produced oaths concur in the petition; and the Lord Ordinary or the Sheriff (as the case may be) shall in either case order the petition to be intimated in the Edinburgh Gazette; and if, at the 20 distance of not less than Twenty-one Days from the publication of such intimation, and on evidence being produced of concurrence as aforesaid, there be no appearance to oppose the same, the Lord Ordinary or the Sheriff (as the case may be) shall pronounce a deliverance finding the Bankrupt entitled to a discharge; but if appearance be 25 made by any of the Creditors, or by the Trustee, the Lord Ordinary or the Sheriff (as the case may be) shall judge of any objections against granting the discharge, and either find the Bankrupt entitled to the discharge, or refuse the same, or annex such conditions thereto as the justice of the case may require.

123.
Discharge without Composition.
Proceedings for this purpose.

And be it Enacted, That if the Bankrupt shall be found entitled 30 to his discharge, he shall make a declaration, or, if required by the Trustee or any Creditor, an oath before the Lord Ordinary or Sheriff, that he has made a full and fair surrender of his estate, and has not granted or promised any preference or security, nor made or promised any payment, nor entered into any secret or collusive agreement or transaction, to obtain the concurrence of any Creditor to his discharge; and if the Bankrupt shall be at the time beyond the jurisdiction of the Lord Ordinary or Sheriff, or is by lawful cause prevented from coming before the Lord Ordinary or Sheriff, 40 commission may be granted to any fit person to take such declaration or oath; and the Lord Ordinary or the Sheriff (as the case may be), on being satisfied with the said oath or declaration, shall pronounce a deliverance discharging the Bankrupt of all debts and obligations contracted by him, or for which he was liable, at the date of the 163. Sequestration;

124.
Bankrupt to make a Declaration or Oath before obtaining Discharge.

Sequestration; and when the said deliverance discharging the Bankrupt is pronounced by the Sheriff, an extract thereof, signed by the Sheriff Clerk, shall forthwith be transmitted to the Clerk of the Bill Chamber, who shall present the same to the Lord Ordinary, and the Lord Ordinary shall confirm the same by a deliverance; and the 5 said deliverance by the Lord Ordinary, or the said deliverance by the Sheriff, when confirmed as aforesaid, shall operate as a complete discharge and acquittance to the Bankrupt in terms thereof, and shall receive effect within Great Britain and Ireland and all Her Majesty's other dominions, and an entry thereof shall be made 10 by the Bill Chamber Clerk in the Register of Sequestrations.

125.
Preferences,
Payments and
collusive
Agreements
for Discharge.

And be it Enacted, That all preferences, gratuities, securities, payments or other consideration not sanctioned by this Act, granted, made or promised, and all secret or collusive agreements and transactions, for concurring in, facilitating, or obtaining the Bankrupt's 15 discharge, either on or without an offer of composition, and whether the offer be accepted or not, or the discharge granted or not, shall be null and void; and if, during the Sequestration, any Creditor shall have obtained any such preference, gratuity, security, payment, or other consideration or promise thereof, or entered into such secret or 20 collusive consideration or agreement or transaction, the Trustee shall be entitled to retain his dividend, and he or any Creditor ranked on the estate may present a petition to the Lord Ordinary or to the Sheriff, praying that such Creditor shall be found to have forfeited his debt, and be ordained to pay to the Trustee Double the 25 amount of the preference, gratuity, security, payment, or other consideration given, made or promised; and if no cause be shown to the contrary, decree shall be pronounced accordingly; And the sums which in such case may be recovered shall, under deduction of the expenses of recovering the same, be distributed by the Trustee 30 among the other Creditors under the Sequestration; and if the Sequestration shall have been closed, it shall be competent to any Creditor who shall not have received full payment of his debt to raise a multiplepoinding in name of the person who has obtained such preference, gratuity, security, payment, or other consideration, 35 or promise as aforesaid; and on the value of the preference, gratuity, or security, or amount of the sum paid, or consideration obtained, being ascertained, double such value or amount, together with the amount of the debt of the colluding Creditor, shall be ordered to be consigned by him, and shall be divided among the Creditors who 40 were ranked, or were entitled to be ranked in the Sequestration, and have not received full payment of their debts, and who shall lodge claims in such multiplepoinding, according to their respective rights and interests: and the multiplepoinding shall be executed in terms of law against the colluding Creditor, and notice thereof

at the same time be inserted in the Edinburgh Gazette; and in the event that there shall be any surplus, after paying the full debts of the Creditors, and defraying the expenses of the Sequestration or other proceeding, the same shall be paid into the account of unclaimed dividends as hereinafter provided.

And be it Enacted, That if the Bankrupt shall have been personally concerned in, or cognizant of the granting, giving or promising any preference, gratuity, security, payment, or other consideration, or in any secret or collusive agreement or transaction as aforesaid, 10 he shall forfeit all right to a discharge, and all benefits under this Act; and such discharge, if granted, either on or without an offer of composition, shall be annulled; and the Trustee or any one or more of the Creditors may apply by petition to the Lord Ordinary to have such discharge annulled accordingly.

126. Bankrupt to forfeit privi-leges, if par-ticipant in giving such references.

And be it Enacted, That if it shall appear to a majority of the 15 Creditors in number and value assembled at any meeting after the examination of the Bankrupt that he has not made a full and fair surrender of his estate, or that he has disposed of or concealed any part of his funds, to the prejudice of his Creditors, or that his 20 Bankruptcy has been fraudulent, they may direct a meeting to be called for taking the subject into consideration on Fourteen Days' notice; and the said meeting, if they see cause, may authorize the Trustee to proceed against him in terms of law at the expense of the estate.

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127. Proceedings if Bankrupt do not make a fair Surren-

And be it Enacted, That it shall be competent to appeal against the resolutions of the Creditors at meetings, either to the Lord Ordinary or the Sheriff, provided a note of appeal shall be lodged with and marked by one of the Clerks of the Bill Chamber within Fourteen Days after the date of the meeting at which the resolution objected to has been passed, or (as the case may be) in the hands of and marked by the Sheriff Clerk within the like period; And it shall in like manner be competent to appeal against any deliverance of the Trustee to the Lord Ordinary or the Sheriff, provided the note of appeal shall be lodged and marked as aforesaid within Thirty Days from the 35 date of the said deliverance (except in the case of dividends as hereinbefore specified); and where any such appeal is made, or where any petition or complaint is presented against the Trustee or Commissioners, or against any of the Creditors, the Lord Ordinary or the Sheriff (as the case may be) shall appoint a copy thereof, and of his deliverance thereon, to be served on the Respondent or his mandatory or known agent, and appoint the Respondent to appear at a specified diet within such period as may be reasonable; and the Lord Ordinary or the Sheriff (as the case may be) shall at such 163. diet

128. Judicial proceedings.

Appeals, &c. against resolutions of Creditors and deliverances of Trustee, to the Lord Ordinary or Sheriff.

diet hear parties vivâ voce, and the Lord Ordinary shall proceed to dispose of the case, with or without a record, as he shall consider best; and the Sheriff, without a record, may decide, provided he shall specify the facts, and assign the grounds of his judgment; but if he shall see cause, he may order minutes to be lodged by the parties, containing their averments in fact and pleas in law, without argument, and may hold the same as a closed record, and proceed in a summary way; and in pronouncing his judgment, he shall assign his reasons; and it shall be competent to the Lord Ordinary or the Sheriff, where any resolution of 10 a meeting of the Creditors is appealed against, to order a new meeting to be held, in order to reconsider the resolution.

120 Review of Sheriff's Judgments.

And be it Enacted, That it shall be competent to bring under the review of the Inner House of the Court of Session any deliverance of the Sheriff (except where the same is declared not to be subject to 15 review), provided a note of appeal shall be lodged with and marked by one of the Bill Chamber Clerks within Twenty-one Days from the date of such deliverance (except in the case of appeals against a deliverance declaring the election of a Trustee, which shall be lodged as hereinbefore provided), failing which the same shall be final; and 20 such reclaiming note shall be disposed of by the Inner House as speedily as the forms of Court will allow; and if it be lodged in time of vacation, the Lord Ordinary may hear parties and give judgment, subject to review of the Inner House; and it shall be competent for the Inner House or the Lord Ordinary to remit to the Sheriff with 25 instructions.

130. Review of Lord Ordinary's Judgments.

And be it Enacted, That where any judgment of the Lord Ordinary is intended to be brought under review of the Inner House, the same shall be done by a reclaiming note in common form.

131. Regulation by Sheriff of Interim Possession.

And be it Enacted, That during the dependence of appeals, 30 or petitions and complaints, it shall be competent to the Sheriff to give such orders as may be necessary to regulate the interim possession and administration of the estate.

132. Appeals to House of Lords.

And be it Enacted, That if any appeal shall be made to the House of Lords, the Sequestration shall in all respects, not incon- 35 sistent with or injurious to the interests which may be affected by the appeal, proceed without interruption; and the Lord Ordinary shall make such orders as may be necessary to regulate the interim possession and management of the estate, and which orders shall not be subject to appeal.

133. Agents in Court of Session may be

And be it Enacted, that it shall be lawful for all agents duly qualified to practise before the Court of Session to practise in all Sheriff'

Sheriff Courts in so far as relates to any of the proceedings authorized by this Act to be carried on before the Sheriff, provided that they shall not be entitled to payment of any higher fees than those legally exigible in such Courts.

Agents in causes under this Act before the Sheriff.

And be it Enacted, That each Trustee shall on the Thirty-first day of October, if a lawful day, or on the first lawful day thereafter, yearly deliver free of expense to the Sheriff Clerk of the county a return, in the form of the Schedule marked (I.) hereunto annexed, of every Sequestration in which he is Trustee; and 10 the Sheriff Clerk shall within Fourteen Days thereafter transmit, in the form of the said Schedule, to the Bill Chamber Clerk a return of all the Sequestrations depending in the sheriffdom whereof he is Clerk; and the Bill Chamber Clerk shall cause the returns so made to be regularly bound up and preserved, according to the alpha-15 betical order of Counties, in a volume to be kept at all times in his office, with an index thereto framed by the said Clerk, and which volume shall be patent to all concerned; and any Trustee who shall fail to make such return shall be removable from his office at the instance of any one Creditor, or subject to such censure as the 20 Lord Ordinary may think suitable, and be found liable in expenses.

134. Trustee to make an annual Return to Sheriff Clerk, and he to Bill Chamber Clerk.

And be it Enacted, That after a final division of the funds, the Trustee shall call a meeting of the Creditors by an advertisement in the Edinburgh Gazette, to be held not sooner than Twenty-one Days after such publication, specifying the time, place and purpose of 25 holding the meeting, and by letters addressed by post to every Creditor who has produced an oath as aforesaid, to consider as to an application for his discharge; and at such meeting he shall lay before the Creditors the sederunt book and accounts, with a list of unclaimed dividends; and the Creditors may then declare their 30 opinion of his conduct as Trustee; and he may thereafter apply to the Lord Ordinary or the Sheriff, who, on advising the petition with the minutes of the meeting, and hearing any Creditor, may pronounce or refuse decree of exoneration and discharge; and when the said decree is pronounced by the Sheriff, an Extract thereof, 35 signed by the Sheriff Clerk, shall forthwith be transmitted to the Bill Chamber Clerk, who shall present the same, without enrolment, to the Lord Ordinary, who shall confirm the same by a deliverance; and such decree, when so confirmed, shall be entered in the Register of Sequestrations, and the Bond of Caution for the Trustee delivered 40 up.

135. Trustee's Discharge.

Proceedings

And be it Enacted, That every Trustee in any Sequestration awarded under this Act shall, before his discharge, transmit the sederunt book to the Bill Chamber Clerk, who shall thereupon intimate to the Trustee the bank in which the unclaimed dividends

136. All Trustees to lodge unclaimed Dividends, &c. in Bank.

are to be deposited, and he shall name the banks in the following

rotation; videlicet, the Bank of Scotland, the Royal Bank of Scotland, the Bank of the British Linen Company of Scotland, the Commercial Bank of Scotland, and the National Bank of Scotland; and the Trustee shall forthwith transfer the whole dividends not then claimed to the bank so intimated, to be there entered in an account to be kept under the title of "Account of unclaimed Dividends;" and a book or books shall be kept in the office of the Bill Chamber Clerk, to be entitled "Register of Unclaimed Dividends," showing such rotation, and containing a list, with the names arranged 10 alphabetically, of all the Creditors entitled to such unclaimed dividends, and in what bank deposited, which shall be patent to all persons; and after the discharge of the Trustee, it shall be competent for any person producing evidence of his right, to apply to the Lord Ordinary for authority to receive such dividends, and, 15 on the Lord Ordinary being satisfied of the claimant's right, a warrant shall be granted for payment of such dividend, whereof the Clerk shall make an entry in the said Register, and upon such warrant the bank shall pay the same; provided that the claimant shall not be entitled to interest on such dividend, but such interest 20 shall go into a general fund, of which an account shall be kept by such bank, to be called "The Interest Account of Unclaimed Dividends," and which fund shall be applied in such manner as shall be regulated by any Act of Parliament; and if at the end of Twentyfive Years from the date of closing any Sequestration there shall 25 remain in the bank any unclaimed dividends belonging to the estate, the same shall be vested in Government stock, and the dividends thereon shall be regularly accumulated for the purpose of forming a fund for defraying the expense of proceedings in Bankruptcy, or otherwise as Parliament shall hereafter direct; and the said Banks shall once yearly at least balance the said accounts, and accumulate the interest with the principal sum, so that both shall thereafter bear interest as principal; and if any such Bank fail to do so, such Bank shall be liable to account as if such money had been so accumulated.

right to apply to Lord Ordinary.

Claimants showing

Interest Account of Unclaimed Dividends.

137. Sur plus to be paid to Bankrupt.

And be it Enacted, That any surplus of the Bankrupt's estate and effects that may remain after payment of his debts, with interest, and the charges of recovering and distributing the estate, shall be paid to the Bankrupt or to his successors or assignees.

138. Provisions as to Perjury.

And be it Enacted, That if any person shall be guilty of wilful 40 falsehood in any oath or affirmation made in pursuance of this Act, he shall be liable to a prosecution either at the instance of Her Majesty's Advocate, or at the instance of the Trustee, with the concurrence of Her Majesty's Advocate, provided that, in the latter

case, the prosecution shall be authorized by a majority in value of the Creditors present at a meeting to be called for the purpose; and such person shall on conviction, besides the awarded punishment, forfeit to the Trustee, for behoof of the Creditors, his whole right, claim and interest in or upon the sequestrated estate; and the same shall be distributed, either under the Sequestration, or if it be closed, under a process of multiplepoinding as is hereinbefore provided.

And be it Enacted, That all deliverances, bonds, schedules and executions under this Act may be either printed or in writing, or partly both; and service or citation may be by a competent Officer without witnesses.

And be it Enacted, That in place of the whole other fees heretofore exigible upon proceedings in Sequestrations, there shall be
15 payable the fees which are set forth in the Schedule marked (K.)
hereunto annexed, and which shall form a fund which shall be
applied in the payment of the salaries and expenses of officers in the
Court in which the same are payable, and of any compensations
allowed by this Act, and any surplus which shall at any time arise
shall be paid as the Commissioners of Her Majesty's Treasury of the
United Kingdom of Great Britain and Ireland shall direct.

And be it Enacted, That the Bill Chamber Clerks, who are hereby prohibited from charging or receiving any fees except for copies of interlocutors or other papers ordered or required, for which an allowance shall be paid at the rate of Sixpence for each page of one hundred and fifty words, without any further charge for stationery, and the person or persons discharging the duties of Clerk in the Bill Chamber under this Act, shall be entitled to an addition to their present salaries, the amount whereof, payable out of the said fees, shall not exceed in all One hundred Pounds per annum, shall be settled and apportioned by the said Commissioners of Her Majesty's Treasury, and shall be paid to the Clerk or Clerks discharging the said duties.

And be it Enacted, That it shall be lawful for any Clerk or Officer
of the Court of Session entitled to compensation for loss to be suffered
through the operation or effect of this Act, to make application to the
Commissioners of Her Majesty's Treasury of the United Kingdom of
Great Britain and Ireland for the time being claiming such compensation, giving at the same time notice of such application to Her
Majesty's Advocate for Scotland, and it shall be lawful for the said
Commissioners of the Treasury to investigate such claim and call for
such evidence in relation thereto as they may think necessary;
and upon such claim being established to their satisfaction, the
said Commissioners, or any Three of them, are hereby authorized

139.
Deliverances, &c. may be partly printed; and citations to be without Witnesses.

140. Fees payable.

141. Fees payable, and additional allowance to the Bill Chamber Clerks.

142. CLAUSE (A.) Compensa-

rized and empowered to award to such person such compensation as they shall, under all the circumstances of the case, and having reference to the nature of the appointment and the duration of the service, think him entitled to, either by the payment of a gross sum or by way of annuity, as they shall think proper: Provided 5 always, That a copy of every such award for compensation shall be laid before both Houses of Parliament within Thirty Days from the day on which the same shall be granted, if Parliament shall then be sitting, and if not, then within Thirty Days after the then next sitting of Parliament, and no such award shall be final and conclusive until 10 Two calendar Months after the same shall have been so laid before Parliament: Provided also, That it shall be a condition of every such grant, that the compensation so granted, in the event of the appointment thereafter of any of the said persons to any office of profit or emolument under the Crown, shall abate or wholly cease during the 15 period in which such person shall hold such office, so as that the compensation and emolument thereof, taken together, shall not exceed the emoluments of the office in respect of which the compensation has been granted.

143. CLAUSE (B.) Compensation how to be paid.

And be it Enacted, That the several compensations which may be awarded under the authority of this Act shall be payable and paid out of the Monies which by the Acts of the seventh and tenth years of the reign of Her Majesty Queen Anne were made chargeable with the fees, salaries and other charges allowed or to be allowed for keeping up the Courts of Session, Justiciary or Exchequer in Scotland.

144.
Gazette
Kecper to
furnish copies
of Gazette.

And be it Enacted, That from and after the commencement of this Act, the Keeper of the Edinburgh Gazette shall on each day of publication furnish a copy thereof to the Keeper of Edictal Citations, and to the Bill Chamber Clerk, who shall keep the same regularly filed, and make the said Gazettes on all occasions patent to the lieges at office hours, on payment of a fee of Sixpence, and no more.

145. Charges on Advertise-ments under this Act and the Act of 54 Geo. 3, c. 137. and 6 & 7 Wm. 4, c. 56, regulated.

And be it Enacted, That no advertisement inserted in the London Gazette or in the Edinburgh Gazette by virtue of this Act, or the said recited Act of the fifty-fourth year of the reign of his Majesty King George the Third, intituled, "An Act for rendering the Payment of Creditors more equal and expeditious in Scotland," or an Act of the sixth and seventh year of his late Majesty, intituled, "An Act for Regulating the Process of Cessio Bonorum in the Court of Session, and for extending the Jurisdiction of Sheriffs in Scotland to such cases," shall be charged by the Keepers of the said Gazettes for publication therein, at a higher price, nor shall a higher price be paid for such publication, than the sums specified in the Schedule (L.) hereunto annexed.

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of

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Conveyances, Deeds, &c. relating to Estates of Bankrupts, not liable to any Stampduty.

And be it Enacted. That from and after the commencement of this Act, all conveyances, assignations, instruments, discharges, writings or deeds, relating solely to the estate belonging to any Bankrupt against whom Sequestration has been or may be awarded either ,5 \ under this or any former Act, and which estate, after the execution of such conveyances, assignations, instruments, discharges, writings or deeds, shall be and remain the property of such Bankrupt, for the benefit of his Creditors, or the Trustee appointed or chosen under or by virtue of such sequestration; and all discharges to the 10 said Bankrupt, and all deeds, assignations, instruments or writings for re-investing the said Bankrupt in the estate, and all powers of attorney, commissions, factories, oaths, affidavits, articles of roup or sale, submissions, decrees arbitral, and all other instruments and writings whatsoever, relating solely to the estate of any Bankrupt 15 sequestrated as aforesaid, and all other deeds or writings forming a part of the proceedings ordered under such Sequestration, and all notices or advertisements inserted in the London and Edinburgh Gazettes relative thereto, shall be exempt from all stamp-duties or other Government duty, and no rates or duties imposed by any Sta-20 tutes upon the sale of estates or effects by auction shall be exigible on the sale of any estates or effects by auction under the authority of this Act: Provided always, That no exemption from auction-duty shall be allowed on the sale by auction under this Act of any estate and effects, unless the auctioneer who shall conduct such

Gazette Advertisements and Sales by Auction not liable to Duty.

And be it Enacted, That it shall be lawful for the Judges of the Court of Session, either during Session or Vacation, by an Act or Acts of Sederunt, from time to time to apportion the duties to be performed by the officers in the Bill Chamber or in the said Court, or in the Sheriff Courts, and to regulate procedure in relation to this Act, in so far as consistent therewith, and to establish a table of fees to be allowed to agents, both in the Court of Session and Sheriff Courts, for conducting the proceedings, and to amend or alter such Act or Acts from time to time, and the said Act or Acts of Sederunt shall within One Month after the making thereof be transmitted by the Lord President of the Court of Session to the Secretary of State for the Home Department, that the same may be laid before both Houses of Parliament.

25 sale shall, at the time of passing his account thereof, produce to the Officer of Excise a catalogue signed and certified by the Trustee by whose order such sale shall have been made, in manner and

form required by the laws of the Excise.

147.
Acts of Soderunt may be

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

148. Act may be repealed or amended.

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SCHEDULES

SCHEDULES REFERRED TO IN THIS ACT.

SCHEDULE (A.)

REGISTER OF SEQUESTRATIONS, referred to in Section 20.

Trustee's Discharge.	
Bankrupt's Discharge on or in that Composition.	
Time for lodging Claims for Dividend.	
Commissioners' Names and Designation.	
Trustee's Name and Designa- tion.	
Time and Place for electing Trustee.	
Interim Factor, Name and Designation,	
Time and Place for electing Interim Factor.	
Date of Transmission to Sheriff, and of Receipt by Sheriff Clerk.	
Date of awarding. (If recalled, Entry to be in this	
Date of First Deliverance.	•
Division of the Court.	
Place and County Designation of Bankrupt's of Petitioning Residence or Concurring or Business.	
Place and County of Bankrupt's Residence or Business.	
Name and Designation of Bankrupt.	

SCHEDULE (B.)

No. 1.

ABBREVIATE FOR THE REGISTER OF INHIBITIONS, referred to in Section 21.

PETITION for Sequestration of A. B. [name and designation.]

Date of first deliverance day of .

(signed) C. D. [If an Agent, state so.]

No. 2.

CERTIFICATE BY THE KEEPER, referred to in Section 21.

Edinburgh [date.]

This Petition was presented by [name and design the presenter] on the [date] and recorded on [date] in the Register of Inhibitions.

(signed) E. F. Keeper.

No. 3.

ABBREVIATE, referred to in Section 89.

PETITION for transferring from A. B. [name and designation] as heir of C. D. [name and designation] the Estates of C. D. [date of deliverance] day of .

(signed) E. F. [If an Agent, state so.]

SCHEDULE (C.)

Notice to the Gazettes, referred to in Section 21.

The Estates of A. B. [name and designation] were sequestrated on [date, month and year.]

The first deliverance is dated the [date.]

The Meeting to elect Interim Factor is to be held at [hour] o'clock on [day of the week] the [date, month and year] within [specify particular place] in [Town], and the Meeting to elect the Trustee and Commissioners is to be held at [hour] o'clock on the [day of the week] the [date, month and year] within [specify particular place] in [Town]. A Composition may be offered at this latter Meeting, and to entitle Creditors to the first dividend, their oaths and grounds of debt must be lodged on or before the [insert date.]

All future advertisements relating to this Sequestration will be published in the Edinburgh Gazette alone.

(signed) P. Q. Agent [specify place of business.]

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SCHEDULE (D.)

FROM OF BOND OF CAUTION FOR AN INTERIM FACTOR OR TRUSTEB, referred to in Section 49.

I, A.B. [name and designation], having been appointed Trustee [or Interim Factor] on the sequestrated estate of C. D. [name and designation]; and I, E. F. [designation] as Cautioner, Surety and full Debtor for and with the said A. B., hereby bind amad oblige ourselves, conjunctly and severally, our heirs and executors, that I, the sa_id A. B., shall faithfully discharge all the duties which by law attach to the said offi ce of Trustee [or Interim Factor], and fully account for my whole intromissions with the said estate, and make payment of any balance due by me to the Creditors on the said estate, or Trustee elected by them to succeed me; declaring that this Bound shall not be in any way affected, nor shall I, the said E_i F_i , be liberated, by a m_i omission, negligence or want of diligence on the part of the Creditors or Commassioners on the said estate. [In case the caution has been limited by the Credito >s, the following clause will be here inserted: And declaring further, that this Bond, so far as concerns me, the said E. F., shall not bind me or my foresaids to a greater extent than the sum of [here insert sum in writing], to which my obligation before written is hereby limited.] In witness whereof, this Bond (so far as not printed) written and filled up by [here shall be inserted in writing attesting clause in legal form.]

O. T., Witness.

(signed)

A. B.

L. F., Witness.

F. F.

SCHEDULE (E.)

ACT AND WARRANT TO THE INTERIM FACTOR, referred to in Section 50.

[Place and date.]

THE Sheriff of the County of [insert County], has confirmed, and hereby confirms A. B. [name and designation], Interim Factor on the Estates of C. D. [name and designation], and the said C. D. is hereby invested with all the powers conferred on Interim Factors by an Act passed in the year of the reign of Her Majes Ly Queen Victoria, intituled [insert the title of this Act.]

[Signed by Sheriff Clerk.]

SCHEDULE (F.)

ACT AND WARRANT OF CONFIRMATION TO THE TRUSTEE, referred to in Section 50 -

THE Sheriff of the County of [insert County], has confirmed, and hereby confirmed.

A. B. [name and designation], Trustee on the sequestrated Estate of C. D. [name and designation], and the whole of the estates and effects, heritable and moveable, and read and personal, whereever situated, of the said C. D. are transferred and belong the A. B., as Trustee for behoof of the Creditors of the said C. D., in terms of an Act of the year of the reign of Her Majesty Queen VICTORIA, intituled [here insert the title of this Act]; and the said A. B. has, as Trustee aforesaid, in terms of the said Act, full right and power to sue for and recover all estates, effects, debts and money belonging or due to the said C. D.

(signed) C. D., Sheriff Clerk-

SCHEDULE (G.)

No. 1.

ABBREVIATE OF ADJUDICATION, referred to in Section 61.

THE whole estates and effects, heritable and moveable, and real and personal, wherever situated, of C. D. [name and designation], are transferred and belong to A. B. [name and designation], as Trustee on his sequestrated estate, conform to Act and Warrant of Confirmation, dated the day of , issued in terms of an Act of the year of the reign of Her Majesty Queen VICTORIA, intituled [here insert the title of this Act].

[Signed by the Trustee or his Agent.]

No. 2.

CERTIFICATE BY THE KEEPER, referred to in Section 61.

TRIS Abbreviate was presented by [name and designation] on the day of and recorded on [date] in the Register of Abbreviates of Adjudications.

(signed) E. F., Keeper.

No. 3.

ABBREVIATE OF ADJUDICATION, referred to in Section 89.

THE Estates vested in A. B. [name and designation] as heir of C. D. [name and designation] are transferred and belong to E. F., [name and designation] as Trustee on the Sequestrated Estate of the said C. D., conform to deliverance by the Lord Ordinary, dated the day of and in terms of an Act of the year of the reign of Her Majesty Queen VICTORIA, intituled [insert the title.]

[Signed by the Trustee or kis Agent.]

SCHEDULE (H.)

(Referred to in Section 66.)

FOR THE GAZETTE.

Sequestration of C. D. [designation.]

A. B. [name and designation], has been elected Trustee on the estate, and E. F. and G. [names and designations], have been elected Commissioners. The Examination of the Bankrupt will take place in the Sheriff Court House [or other Place] on [day of week] the [date] of [month] next, at [hour]. The Creditors will meet in [specify the place, day, date and month and hour] o'clock. [If any offer of composition has been entertained at the meeting for election of Trustee, intimate this as provided by the Act.]

I C'ENCO DU MA A MONTO	Γ	Signed	bu	the	Truste	e.
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SCHEDULE (

			_
enses.	Miscellaneous.		
AMOUNT OF EXPENSES.	Law Expenses.		
AMOUN	Trustee's Commission.		Signed In Trustee
Dividend	paid or unpaid.		Signed 1
County Name and Name and Names Funds Funds Remount of Amount of Am	payable, and Ivames and Designations of Cautioners.		
Discharge on	or without Composition.		
Allowance	Banktupt.		
Amount	of Debts.		
Amount of	Funds realized.		
Amount of Funds			
Names Order	Commissioners.	<u>.</u>	
Name and	Designation of Trustee.		
Name and	Designation of Interim Factor.		
County	and Place.		-
Name and	Designation of Bankrupt.		

SCHEDULE (K.)

TABLE OF FEES PAYABLE UNDER THIS ACT, referred to in Section 140.

I.—In the Court of Session.

(1.) To the Collector of the Fee Fund:	£.	s.	d.
Original petitions for Sequestration, or any other writ or step by which a process of Sequestration is originated	_	10	_
All other papers, being steps of procedure, and not productions, each	-	2	6
(2.) To the Keeper of the General Minute Book:			
For entering the first deliverance and deliverance awarding Sequestration, adjudication and discharge, and approval of composition, each For entering any other deliverance or intimation	-	2	6
(3.) To the Extractors:			
For every extract made of the proceedings, or of the deliverance of the Lord Ordinary or Inner House, per sheet	ı	1	-
II To the Keepers of the Records.			
For entering any schedule	_	1	_
For entering on the margin of any record the recall of Sequestration, or discharge in favour of the Bankrupt	ı	1	_
For access to and liberty to make excerpts of proceedings under this Act from any register or record appointed herein to be kept, or in which entries are herein appointed to be made, a fee of <i>One shilling</i> for each year of the record		40	
inspected, but not exceeding in all for any One record	-	10	-
For extracts or certified copies therefrom, per sheet	-	1	_
For collating and certifying excerpts therefrom, per sheet	_	_	. 0
III.— SHERIFF COURT.			
III.— SHERIFF COURT. (1.) To the Sheriff Clerk:			
(1.) To the Sheriff Clerk: On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the		9	6
(1.) To the Sheriff Clerk: On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee -		2	6
(1.) To the Sheriff Clerk: On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee - For every other deliverance, not being merely an order for papers or revisals -	 - -	2 1 1	6
 (1.) To the Sheriff Clerk: On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee	 - -	2 1 1	6
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 (1.) To the Sheriff Clerk: On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee		2 1 1	6 6 6
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(1.) To the Sheriff Clerk: On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee		2 1 1 - - 2 1	666666
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On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee		2 1 1 	6 6 6 6 - 6
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On every deliverance pronounced by the Sheriff, declaring the election of an Interim Factor or a Trustee, appointing diets of examination, granting a discharge to the Bankrupt, approving of composition, or exonerating the Trustee		2 1 1 - - 2 1 2	6 6 6 6 6 6 6 6 6 6 6

SCHEDULE (L.)

TABLE of PRICES payable for ADVERTISEMENTS in the LONDON or EDINBURGH GAZETTE, referred to in Section 143.

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•				1	£.	s.	₫.
For six lines and under	-	-	-	-	_	6	_
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For more than ten lines and not exceeding fifteen lines -	-		-	-	_	10	€
For more than ten lines and not exceeding fifteen lines - For more than fifteen lines and not exceeding twenty lines	-	-	-	-	_	14	6
For more than twenty lines and not exceeding twenty-five lin	nes	-	-	-	_	17	6
For more than twenty lines and not exceeding twenty-five lines and not more than thereby lines and not more than thirty lines.	es	-	_	-	1	_	6

INDEX

of the foregoing BILL.

UL.	·
1.	PREAMBLE, and Enactment that all depending Sequestrations be proceeded in and brought to a conclusion in terms of 54 Geo. III. c. 137.
2.	Commencement of New Act to be July 1839. All Sequestrations to be thereafter awarded, proceeded in, and brought to a conclusion under the provisions thereof.
3.	Construction of words in this Act. Act to be construed beneficially for the ends thereof.
4	-Sequestration. The Estates of any Debtor or Company, subject to the laws of Scotland, may be sequestrated with their own consent, with concurrence of Cre-
_	ditors to a certain extent.
5·	of contain descriptions of Dobtors without their contains
7	of certain descriptions of Debtors, without their consent. of a Company, without its consent.
	of a Debtor remaining for a certain time in the Sanctuary, without his consent.
	Petition, what Creditors entitled to. Time of presenting.
	Oath of verity by Creditors.
	Oath of Credulity. When made.
	Accounts and vouchers necessary to prove Debt must be produced.
	Application for Sequestration must be by petition to Lord Ordinary. Where without Debtor's consent, oath to certain facts must be made and produced.
14.	SEQUESTRATION applied for by the Debtor, awarded, and personal protection granted. Meetings for the election of Interim Factor and Trustee to be appointed. Process of Sequestration to be remitted to Sheriff.
15.	PROCEDURE in the case of a deceased Debtor. Judicial Factor may be appointed ad interim.
16.	on Petition for Sequestration of the Estates of Debtors, without their consent.
17.	of Companies, without their consent.
	Lord Ordinary may grant warrant for Debtor's liberation from Prison. Effect of such Warrant.
	Bill-Chamber-Clerks to be Clerks to Sequestrations, and to keep a Register.
	Abbreviate of Sequestration to be Recorded in General Register of Inhibitions. The Awarding Sequestration to be Advertised in the Edinburgh and London Gazettes.
22.	The Deliverance Awarding Sequestration not to be subject to review, but may be recalled.
23.	No recall competent after a certain time, unless nine-tenths of the Creditors apply.
24.	Other Creditors may be sisted in place of petitioning or concurring Creditor. Debtor's Death not to stop proceedings.
-	DATE of first Deliverance on Petition to be held the date of the Sequestration.
26.	Sequestration to be equivalent to Notour Bankruptcy. Date of Registration of Sasine, and of Intimation of an Assignation, to be held the date of the Sasine or or Assignation under this Act.
	Petitioning, concurring in Petition, or claiming in Sequestration to interrupt Prescription, and bar any Statute of Limitations in England or Ireland.
	163. H 2 28. Sequestration

- CL.
- 28. Sequestration to remain in Court of Session notwithstanding remit to Sheriff. Certified copy of Petition, &c., to be transmitted to the Sheriff-Clerk of the County where the Meetings are to be held. Jurisdiction of Sheriff. Sheriff-Clerk to keep Register.
- 29. All deliverances of the Court of Session and Sheriff, as well as extracts thereof to be evidence, and Warrants for all Diligence and execution competent.
- 30. The claim by the Agent and others for expenses, &c., restricted to the Sequestrated Estate, and against employer.
- 31. Mandatories for Creditors may vote.
- 32. Persons acquiring debts after Sequestration not to vot in election of Interim Factor or Trustee.
- 33. CLAIMS for Interest. Rules as to deducting Interest on Debts not payable; and as to Discounts.
- 34. Rules as to Voting, where a Creditor holds a Security over the Bankrupt's Estate.
- 35. where a Creditor has obligants liable in relief to the Bank-rupt.
- 36. on the Estate of a Partner for a Company Debt.
- 37. Right of Trustee and Creditors to require Assignation to Securities or Obligations valued with a view to Voting. Provision for change on value of such Securities.
- 38. Valuation of any Security held over any part of the Estate of the Bankrupt, prior to drawing Dividend,—Creditor ranked for the balance. Trustee may require Assignation to such Security on payment of estimated value.
- 39. The value of a Creditor's claim on the Estate of a Company deducted before he is ranked on the Estate of a Partner of the Company.
- 40. Contingent Creditors.
- 41. Annuity Creditors.
- 42. Cautioners for Annuities.
- 43. Claiming or acting in the Sequestration not to discharge co-obligant.
- 44. Oath not to supersede legal evidence.
- 45. Majorities of votes-how ascertained.
- 46. PROCEEDINGS at meeting for election of INTERIM FACTOR and TRUSTER. Sheriff and Sheriff-Clerk to attend if required.
- 47. If Sheriff present, all objections to the votes or candidates must be stated at the meeting, and forthwith disposed of, or avizandum made therewith by Sheriff. Sheriff to declare person who is duly elected Interim Factor or Trustee.
- 48. Where the Sheriff is not present at the meeting for election of Interim Factor or Trustee.
- 49. Creditors to fix amount of caution to be found by Interim Factor or Trustee. Bond to be lodged with Sheriff-Clerk.
- 50. Sheriff to confirm the election of person chosen Interim Factor or Trustee. ACT and WARRANT issued as their title.
- 51. Sheriff-Clerk to act as Interim Factor if the Creditors fail to elect one. Sheriff may seal up Bankrupts' books and papers, and lock up his shop, &c. till Factor confirmed.
- 52. Duties of Interim Factor. Must lodge money in Bank.
- 53. Bankrupt to make up state of his affairs, and give information and assistance to Interim Factor and Trustee.
- 54. At meeting to elect Trustee, Interim Factor to exhibit States, and be remunerated.
- 55. Proceedings in case of Appeal to Court of Session againt the Sheriff's judgment, declaring the person elected Interim Factor or Trustee. Expenses how to be paid.
- 56. Such Appeal not to stop Sequestration. Interim Factor to continue to act and be remunerated.
- 57. Three Commissioners (who may be either Creditors or Mandatories for Creditors,) to be elected at the same meeting as the Trustee, to advise with him, &c.

58. Duties

- CL.
- 58. Duties of Commissioners.
- 59. OFFER of Composition may be made by Bunkrupt at meeting for election of Trustee, and personal protection renewed.
- 60. Allowance may be made to Bankrupt.
- 61. Trustee's confirmation to be recorded in Register of Adjudications.
- 62. TRUSTEE'S DUTIES. Money to be lodged in Bank.
- 63. Penalty on Interim Factor or Trustee for not duly lodging money in Bank.
- 64. Trustee to keep a Sederunt Book and regular accounts.
- 65. Interim Factor, Sheriff-Clerk, Trustee and Commissioners amenable to Lord Ordinary and Sheriff.
- 66. Examination of Bankrupt. The Sheriff, on Trustee's application, to appoint the time. The Trustee to advertise the time and place for holding a (third) general meeting of Creditors.
- 67. Sheriff may grant warrant to apprehend the Bankrupt.
- 68. Lord Ordinary may grant warrant for same purpose, when the Bankrupt is in England or Ireland.
- 69. The Sheriff may, on application of Trustee, order an examination of the Bankrupt's wife and others, and grant warrant for apprehending them for examination.
- 70. The Bankrupt and others must answer all lawful questions. Parties entitled to expenses as witnesses.
- 71. Effect of refusal to answer, &c.
- 72. Latent partners must disclose themselves.
- 73. Bankrupt may correct the state of his affairs, and must make oath at the close of the examination. Form of Oath.
- 74. Trustee must make a REPORT to third general meeting of Creditors. Meeting to give directions for the management, recovery and sale of the estate.
- 75. Special meetings of Creditors may be called.
- 76. Meetings must be advertised 14 days previously.
- 77. To what Creditors Notices through post-office need not be sent.
- 78. REMOVAL or RESIGNATION of Trustee.
- 79. THE MOVEABLE ESTATE vested in the Trustee.
- 80. THE HERITABLE ESTATE vested in the Trustee, with all right, title and interest which was then in the Bankrupt. Limitations and qualifications of the Trustee's right.
- 81. ESTATES in England, Ireland and other British dominions.
- 82. Acquisitions of Bankrupt after the Sequestration to belong to the Creditors.
- 83. SEQUESTRATION equivalent to an adjudication in competition.
- 84. —— to arrestment and poinding. Diligence sixty days before Sequestration, or after it, ineffectual. Expenses of diligence.
- 85. Preferences over the estate of a deceased Debtor null in certain cases.
- 86. Acts and payments by Bankrupt after Sequestration null. Exception.
- 87. Subjects improperly included in Sequestration may be struck out.
- 88. Trustee may complete feudal titles, or grant such rights as Bankrupt could do.
- 89. Trustee may get property transferred to him, although heir of Bankrupt has made up titles. Decree to be recorded in Register of Adjudications.
- 90. Circumstances in which Heritable Creditors are not to interfere with sale by Trustee.
- 91. Public sale of heritable subjects. Effect on securities.
- 92. Heritable Creditor may allow Trustee to sell.
- 93. Heritable Creditor, with power to sell, may sell in terms of his bond, notwithstanding the Sequestration.
- 94. Judicial sale. Disposal of price.
- 95. How far Heritable Creditors are liable for expenses.
- 96. Effect of Sequestration on Heritable Creditor's right to poind the ground.
- 97. Landlord's right of Hypothec reserved.
- 98. The Interim Factor or Trustee may be authorized to receive and open post letters addressed to the Bankrupt.
 - 163.

CL.

- 99. Trustee, with consent of Commissioners, may enter into submissions and compromises.
- 100. Creditor may purchase any part of the sequestrated estate, NOT the Interim Factor, Trustee, or Commissioners.
- 101. Realized fund to be divided among those who were Creditors of the Bankrupt at the time of his Sequestration.
- 102. Dividends. Times at which they may be made.
- 103. Time within which Creditors must produce oaths, &c., to entitle them to receive payment of dividends.
- 104. Trustee to make up state of Bankrupt's affairs, and accounts of his intromissions.

 State to be examined, and Trustee's accounts docqueted by Commissioners, within

 Fourteen days after the expiration of Six months from the date of the Sequestration.

 First Dividend may be declared or postponed.
- 105. If a dividend is to be made, Trustee to make up lists of Creditors entitled or not entitled thereto.
- 106. Trustee to publish and transmit Notices of dividend, and of his judgment on the claims. Creditors may appeal against Trustee's deliverance within a limited period.
- 107. Trustee to make up scheme of division.
- 108. FIRST DIVIDEND may be paid first lawful day after the expiration of Eight months from the date of the Sequestration. Dividends not upliftable, or on claims under appeal, to be deposited in Bank in name of Trustee and Commissioners.
- 109. Second dividend, preparation for.
- 110. Paid on the first lawful day after the expiration of Twelve months from the date of the Sequestration.
- 111. Subsequent Dividends.
- 112. Proceedings when Commissioners postpone the dividend.
- 113. Estate may be wound up on expiration of Twelve months from date of Sequestration, by a sale of whole outstanding funds and claims.
- 114. Discharge of Bankrupt on Composition. Offer may be made at meeting for election of Trustee. If entertained to be advertised and intimated.
- 115. Offer, if entertained, to be disposed of at the meeting after the Bankrupt's examination. Caution to be found, and the Trustee to transmit report to Bill Chamber Clerk, or Sheriff-Clerk, and the Lord Ordinary or Sheriff, after hearing parties, and being satisfied that the requisite consents had been obtained to approve of Composition.
- 116. Offer of Composition may be made at the meeting to be held after the Bankrupt's examination, or at any other meeting specially called for the purpose. If entertained, another meeting to be called to decide thereon; and, if accepted, caution to be found, and a report to be made by the Trustee, and the Composition approved of by the Lord Ordinary or Sheriff.
- 117. The Bankrupt, on making an oath or declaration, to obtain his discharge.
- 118. The Trustee's accounts to be audited, and provision made for expenses before approval of the Composition.
- 119. Sequestration to go on, notwithstanding offer of Composition. On approval, Sequestration to cease.
- 120. Bankrupt and Cautioner not entitled to dispute claims ranked unless objected to at the time of making offer of Composition.
- 121. Cautioner not liable for Composition on claims not produced before approval of Composition, or within Two years thereafter.
- 122. If offer of Composition rejected, no other to be entertained, unless nine-tenths of Creditors ranked agree to do so.
- 123. Bankrupt's Discharge without Composition. Proceedings for this purpose.
- 124. Bankrupt to make a declaration or oath before obtaining Discharge.
- 125. Preferences, payments and collusive agreements for discharge on Composition or otherwise, null.

126. Bankrupt



231

CL.

126. Bankrupt to forfeit privileges if participant in giving such preferences, &c.

127. If Bankrupt do not make a fair surrender, &c., to be punished.

- 128. Judicial proceedings.—Appeals, &c., against resolutions of Creditors, Trustee and Commissioners may be made to the Lord Ordinary or the Sheriff.
- 129. Sheriff's judgment subject to review of Court of Session.
- 130. Lord Ordinary's judgment subject to review of Inner-House.

131. Sheriff may regulate interim possession.

- 132. Appeals to House of Lords competent, except respecting orders to regulate interim possession.
- 133. Agents in Court of Session may be agents in causes under this Act before the Sheriff.
- 134. Trustee to make an Annual Return to Sheriff-Clerk, and he to Bill Chamber-Clerk.

135. Trustee's Discharge. - Proceedings for that purpose.

136. Trustee to lodge unclaimed Dividends in Bank. Account to be kept by Bank of Unclaimed Dividends. Claimants having right to Dividends so lodged may apply to Lord Ordinary for warrant to uplift the same, without interest. Bank to keep account of interest on Unclaimed Dividends. Dividends unclaimed for Twenty-five years, and the amount of the interest account to be applied to public purposes.

137. Surplus of the Estate to be paid to Bankrupt.

138. Provisions as to Perjury.

139. Deliverances, &c., may be partly printed; and service or citation may be by competent officer without witnesses.

140. No Fee-Fund Dues exigible. Fees payable.

141. Gazette Keeper to furnish copy of Gazette to Keeper of Edictal Citations.

142. Charges on Advertisements under this Act and the Act of 54 Geo. III. c. 137, and 6 & 7 Will. IV. c. 50, regulated.

143. Conveyances, Deeds, &c., relating to Estates of Bankrupts not liable to any stamp duty. Gazette Advertisements, and Sales by Auction not liable to duty.

144. Acts of Sederunt may be made.

145. Act may be repealed or amended.



Bankrupts' Estates (Scotland).

B

[AS AMENDED BY THE COMMITTEE]

For Regulating the Sequestration of the Estates of Bankrupts in Scotland.

(Prepared and brought in by The Lord Advocate and Mr. Attorney General.)

Ordered, by The House of Commons, to be Printed,
8 April 1839.

[Price 8 d.]

163.



(Ireland.)

A

$\mathbf{B} \quad \mathbf{I} \cdot \quad \mathbf{L} \quad \mathbf{L}$

To amend an Act of the Sixth and Seventh Year of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland."

DEREAS by an Act passed in the Parliament of Ireland in the eleventh and twelfth years of the reign of King George the Third, intituled, "An Act to prevent Frauds committed by Bankrupts," it was enacted, that nothing therein contained, should extend to any Security or Securities by Judgment obtained before the Bankrupt should become Scrivener, Salesmaster, Banker, Broker, Factor, Dealer in Exchange or Merchandize; but that all debts so secured should have the same force and effect, priority and preference, as if the said Act had not been made:

Preamble:

Recites Act of 11 & 12 Geo. 3, which enacts that nothing therein contained should extend to any Security by Judgment obtained before the Person became a Trader, but that all such debts should have the same priority as if said Act had not been made.

And whereas by an Act passed in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland," the said Act of the eleventh and twelfth years of the reign of his Majesty King George the Third was repealed:

Recites 6 & 7 Will. 4, which repeals 11 & 12 Geo. 3.

And whereas by the said Act of the sixth and seventh years of the reign of King William the Fourth, no provision was made for preserving the priority and effect of Judgment Debts of Bankrupts secured by Judgments obtained before such Bankrupts became Traders:

No provision made by 6 & 7 Will. 4, for preserving priority of such Judgments.

And whereas doubts have arisen whether by the said Act of the sixth and seventh years of the reign of King William the Fourth, the priority and preference of Judgments obtained before the passing of said Act against persons who were not Traders at the time of the obtaining thereof have been preserved:

That doubts have arisen whether by said Act Judgments obtained before passing it against Persons who were not then Traders have been preserved.

84.

And

That to remove such doubts,

Enacts, that all Judgments obtained before passing the Act Will. 4, against persons not being at the time Traders, shall have the same force and effect as if said Act had not been passed.

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And whereas it is expedient to remove such doubts; 150 it therefore Cnacted and Declared, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT nothing in the said Act of King WILLIAM the Fourth shall extend or be construed to extend to prevent any Security or Securities by Judgment obtained before the passing of said Act, against any person or persons who at any time heretofore have become or at any time hereafter shall become Bankrupt before such person became a Trader liable to become Bankrupt, from taking place and effect upon the lands, tenements and real estate of such Bankrupt; and that all Judgments obtained before the passing of said Act against any person or persons not being at the time of the obtaining thereof Traders liable to become Bankrupt, shall, as against the lands, tenements and real estate of such person or persons, have and the same are hereby declared to have the same force and effect, lien, priority and preference, notwithstanding the bankruptcy of such person or persons, as if the said Act of the sixth and seventh years of King WILLIAM the Fourth had not been passed.

A

B I L L

To amend an Act of the Sixth and Seventh Year of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland."

(Prepared and brought in by Mr. Beumish and Mr. Serjeant Jackson.)

Ordered, by The House of Commons, to be Printed,

5 March 1839.

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3 June 1839.—2 Vict.



(Ireland.)

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BILLL

[AS AMENDED BY THE COMMITTEE]

To amend an Act of the Sixth and Seventh Year of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland."

[N. B.—The Clauses marked (A.) and (B.) were added by the Committee.]

DER CAS by an Act passed in the Parliament of Ireland in the Session held in the eleventh and twelfth years of the reign of King George the Third, intituled, "An Act to prevent Frauds committed by Bankrupts," it was enacted, that nothing therein contained, should extend to any Security or Securities by Judgment obtained before the Bankrupt should become Scrivener, Salesmaster, Banker, Broker, Factor, Dealer in Exchange or Merchandize; but that all debts so secured should have the same force and effect, priority and preference, as if the said Act had not been made:

Preamble:

Recites Act of 11 & 12 Geo. 3, which enacts that nothing therein contained should extend to any Security by Judgment obtained before the Person became a Trader, but that all such debts should have the same priority a if said Act had not been made.

And whereas by an Act passed in the Session of Parliament held in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland," the said Act of the eleventh and twelfth years of the reign of his Majesty King GLORGE the Third was repealed:

Recites 6 & 7 Will. 4, which repeals 11 & 12 Geo. 3.

And whereas by the said Act of the sixth and seventh years of the reign of King William the Fourth, no provision was made for preserving the priority and effect of Judgment Debts of Bankrupts secured by Judgments obtained before such Bankrupts became Traders:

No provision made by 6 & 7 Will. 4, for preserving priority of such Judgments.

And whereas it is expedient to remove such doubts; 15¢ it therefore Cnacred and Declared, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual 275.

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and Temporal, and Commons, in this present Parliament assembled,

CLAUSE (A.)
This Act not to apply where Contracts for Purchases have been made, and any part of the Purchasemoney paid.

1

and by the Authority of the same, THAT nothing contained in said Act passed in the Session held in the sixth and seventh years of the reign of King WILLIAM the Fourth, shall extend to any security or securities by judgment obtained before the First day of June One thousand eight hundred and Thirty-six, and before the Bankrupt shall have become a trader liable to become a Bankrupt; but debts so secured shall have the same force and effect, priority and preference, as if the said last-mentioned Act had not been passed: Provided always, That nothing in this Act contained shall repeal or alter said 10 last-mentioned Act, so far as may relate to any lands, tenements, hereditaments or property, or to any judgment affecting, or which, if this Act had not been passed, would affect any lands, tenements, hereditaments or property which shall have been sold before the passing of this Act, and for which, before the passing of this 15 Act, the purchase-money, or any part thereof, shall have been paid; but lands, tenements, hereditaments and property shall have such exemption or exoneration from any such judgment or judgments as if this Act had not been passed: Provided also, That in case, before the passing of this Act, any lands, tenements, hereditaments 20 or property liable, or which, if said Act of the sixth and seventh years of the reign of King WILLIAM the Fourth had not been passed, would have been liable to any such judgment, shall have been the subject of any contract for sale, or shall have been the subject of any bidding, in or under any order or orders, or other proceedings, of any 25 court, and no part of the purchase-money therefor shall have been paid before the passing of this Act, it shall be lawful for the party or parties who shall have contracted to purchase, or who shall have bid for any such lands, tenements, hereditaments or property as last aforesaid, to rescind such contract or abandon such bidding, and thereupon 30 to be absolved from the same upon his, her or their serving a written notice of his, her or their intention so to rescind or abandon on the party or parties who shall have contracted to sell such lands, tenements, hereditaments or property, or on the Registrar of the Court in which, or under any order or orders or other proceedings of which, 35 such bidding shall have been had, such notice to be so served within Three calendar Months after the passing of this Act, or, in the case of any such bidding as aforesaid, or of any contract under any order or proceedings of any Court, within such shorter time as the Court in which, or under any order or orders or other proceedings of which, 40 any such bidding shall have been had, or any such contract shall have been made, shall order.

Purchasers who have not paid Purchasemoney, may rescind Contracts in certain cases.

2. CLAUSE (B.) Act may be altered this Session.

And be it Enacted, That this Act may be amended or repealed by any Act or Acts to be passed in the present Session of Parliament.

To amend an Act of the Sixth and Seventh Year of his late Majesty King WILLIAM [AS AMENDED BY THE COMMITTEE] the Laws relating to Bankrupts in Ireland."

dered, by The House of Commons, to be Printed, 3 June 1839.

(Ireland.)

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BILL

[AS AMENDED ON RE-COMMITMENT]

To amend an Act of the Sixth and Seventh Year of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland."

[N. B.—The Clause marked (A.) was added by the Committee.]

per de de by an Act passed in the Parliament of Ireland in the Session held in the eleventh and twelfth years of the reign of King George the Third, intituled, "An Act to prevent Frauds committed by Bankrupts," it was enacted, that nothing therein contained, should extend to any Security or Securities by Judgment obtained before the Bankrupt should become Scrivener, Salesmaster, Banker, Broker, Factor, Dealer in Exchange or Merchandize; but that all debts so secured should have the same force and effect, priority and preference, as if the said Act had not been made:

Preamble:

Recites Act of 11 & 12 Geo. 3, which enacts that nothing therein contained should extend to any Security by Judgment obtained before the Person became a Trader, but that all such debts should have the same priority as if said Act had not been made.

And whereas by an Act passed in the Session of Parliament held in the sixth and seventh years of the reign of his late Majesty King William the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland," the said Act of the eleventh and twelfth years of the reign of his Majesty King George the Third was repealed;

Recites 6 & 7 Will. 4, which repeals 11 & 12 Geo. 3.

And whereas by the said Act of the sixth and seventh years of the reign of King William the Fourth, no provision was made for preserving the priority and effect of Judgment Debts of Bankrupts secured by Judgments obtained before such Bankrupts became Traders:

No provision made by 6 & 7 Will. 4, for preserving priority of such Judgments.

MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, 311.

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1. 6 & 7 Will. 4, not to extend to judgments obtained before 1 July 1836, and before the Bankrupt became a trader.

This Act not to apply where Sales, or Contracts for Sales, under the Bankrupt Commissioners, have been made. and by the Authority of the same, THAT nothing contained in the said Act passed in the Session held in the sixth and seventh years of the reign of King WILLIAM the Fourth, shall extend to any security or securities by judgment obtained before the First day of July One thousand eight hundred and Thirty-six, and before the Bankrupt became a trader liable to become a Bankrupt; but debts so secured shall have the same force and effect, priority and preference, as if the said last-mentioned Act had not been passed: Provided always, That nothing in this Act contained shall repeal, or alter, or in any manner affect the operation of the said last-mentioned Act, so far as relates to any lands, tenements, hereditaments or property, or to any judgment affecting, or which, if the said last-mentioned Act had not been passed, would affect any lands, tenements, hereditaments or property, which shall have been sold, or, in pursuance of any order or direction of the Commissioners of Bankrupt in Ireland, or either of them, shall have 15 been contracted to be sold, before the passing of this Act.

CLAUSE (A.)
Act may be altered this Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

dered, by The House of Commons, to be Printed,

(Prepared and brought in by r. Beumish and Mr. Serjeant Jackson.) o amend an Act of the Sixth and Seventh Year of his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend the Laws relating to Bankrupts in Ireland."

AS AMENDED ON RE-COMMITMENT

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Bankrupts (Ireland.

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To enable Justices of the Peace in Petty Sessions to make Orders for the Support of Bastard ានក្នុង ខេត្ត () វេស្តិស៊ីតើ ស bot ភាពលេខនេះជ Children.

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[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

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神世界世紀ち it is expedient to give more speedy and Preamble. effectual means for obtaining Orders upon the putative Fathers of Bastard Children for their Support and Maintenance; BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT after the passing of this Act, when any Child which shall have been born a Bastard shall, by reason of the inability of the Mother of such Child to provide for its maintenance, become chargeable to any Parish, the Guardians of any Union in which such Parish may be situate, or if there shall be no such Guardians, then the Guardians or Overseers of such Parish, may, if they think proper, after diligent inquiry as to the Father of such Child, apply to the Justices of the Peace holding any Special 15 or Petty Session in and for the Division or Borough within which such Union or Parish shall be situated, after such Child shall have become chargeable, for an Order upon the person whom they shall charge with being the putative Father of such Child, to reimburse such Union or Parish for its maintenance and support; and the 20 Justices then and there assembled, not being less than Two, shall proceed with respect to the application, and shall have all the powers and duties in regard thereunto which are given to the Court of General Quarter Sessions by an Act passed in the fifth year of 4 & 5 W. 4. the reign of his late Majesty, intituled, "An Act for the Amend-446. ment

Orders on putative Fathers of Bastard Children trans-ferred to

ment and better Administration of the Laws relating to the Poor in Éngland and Wales;" and all enactments in the said Act relating to the Court of General Quarter Sessions shall be taken to apply to the said Justices in Special or Petty Session, except that the notice to the person intended to be charged with being the Father of the Child need not be given more than Seven Days instead of Fourteen Days before the Session at which the application shall be heard; and after the passing of this Act it shall not be lawful to make any such application to any Court of General Quarter Sessions, nor shall any Court of General Quarter Sessions have any authority to make any Order upon any such application.

Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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To enable Justices of the Peace in Petty Sessions to make Orders for the Support of Bustard Children.

(Prepared and brought in by Lord John Russell and Mr. Attorney General.)

Ordered, by The House of Commons, to be Printed, 23 July 1839.



A

To alter and amend the Laws relating to the Sale of Beer.

[Note.—The Words and Clause printed in Italics are proposed to be inserted in the Committee.]

DEREAS an Act was passed in the first year of the reign Preamble. of his late Majesty King WILLIAM the Fourth, intituled, "An Act to permit the general Sale of Beer and Cider by retail in England:" And whereas another Act was passed in the fourth and fifth years of the reign of his said late. Majesty, intituled, "An Act to amend an Act passed in the first Year of his present Majesty, to permit the general Sale of Beer and Cider by retail in England:" And whereas it is expedient to alter and amend the said last-mentioned Acts; BE it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT, from and after the passing of this Act, every person applying for a License to sell Beer or Cider by retail shall, in addition to the application setting forth the particulars required by the said first-recited Act, and the Certificates required by the said last-recited Act, annually produce to and deposit with the Commissioners of Excise, Collector, Supervisor or other person authorized to grant such License within the parish, township or place in which the person so applying intends to sell Beer or Cider by retail, a Certificate, signed by himself or herself, as well as by his or her landlord or landlady, or party (if any) receiving the rent of the house or premises specified in such application, that the said house or premises are of the annual value of Ten Pounds at the least, and that the person applying for such License has bonâ fide rented

93.

Person applying for License to produce that House is of the annual value of 101.

and occupied the same for the space of Twelve Months then next preceding, and also a Certificate from the Overseer or Overseers of such parish, township or place, that the said house or premises are rated to the relief of the poor at the sum of *Ten Pounds* at the least, and that the applicant has been rated in respect of the occupation thereof for the said space of Twelve Months.

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2. Penalty on Overseer neglecting to give Certificate.

And be it Enacted, That if any Overseer of any parish, township or place shall, after application made to him by or on behalf of the person applying for the License required by this Act, refuse or neglect to certify if the fact be so, that such applicant is and has been rated as aforesaid, he shall forfeit and pay any sum of money not exceeding Five Pounds, to be recovered before any Justice of the Peace acting for the County in which such parish, township or place shall be situate, on complaint of the person by whom the application shall have been made, unless such Overseer shall show to the satisfaction of such Justice reasonable cause for such neglect or refusal.

Penalty for making or using talse Certificate.

And be it Enacted, That if any person shall in any Certificate required by this Act, certify any matter as true, knowing the same to be false, or shall make use of any Certificate for the purposes of this Act, knowing such Certificate to be forged, or the matters certified therein to be false, every such person shall on conviction of such offence before Two or more Justices of the Peace, forfeit and pay the sum of Twenty Pounds; and every License for the sale of Beer or Cider by retail which shall be granted to any person who shall have made use of any such Certificate in order to obtain the same, such person knowing such Certificate to be forged, or the matters certified therein to be false, shall be void to all intents and purposes; and any person who shall have made use of such Certificate shall for ever thereafter be disqualified from obtaining a License to sell Beer or Cider by retail under the provisions of the said recited Acts and this Act.

License obtained on false Certificate to be void.

And be it Enacted, That from and after the passing of this Act, the Duty payable on Excise Licenses for the selling by retail of Beer to be drunk or consumed in or upon the house or premises, when sold under the provisions of the said recited Acts, shall cease and determine; and that in lieu of such Duty there shall be levied, collected and paid upon all such Licenses the sum of Five Pounds Five Shillings.

Duty on Licenses to sell Beer by retail to be drunk on the Premises, and under 4 & 5 Wm. 4, c. 85, repealed; new Duties granted in heu thereof.

Provided always, and be it Enacted, That no License under the provisions of the said recited Acts for the sale of Beer, Ale, Porter, Cider or Perry by retail, on the premises, in the Cities 40 of London and Westminster or in any parish or place within the Bills of Mortality, nor within any city or town corporate, nor within

5. Proviso as to Licenses in London, &c.

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243

the distance of One Mile from the place used at the last Election, as the place of election or polling-place of any town returning a Member or Members to Parliament, provided that the population, to be determined according to the last Parliamentary Census that shall have been taken in such city, town corporate or town returning a Member or Members to Parliament, shall exceed Five thousand, shall be granted from and after the passing of this Act, unless the house or premises required to be specified as the house or premises in which Beer or Cider is intended to be sold in virtue of such 10 License, shall be of the value of Fifteen Pounds per annum at the least, and certified in the manner hereinbefore mentioned to be of such value, and to have been occupied by the applicant for the space of Twelve Months next preceding the date of such Certificate, and to be rated and assessed to the rate for the relief of the Poor at 15 the sum of Fifteen Pounds at the least.

And be it Enacted, That all the provisions of the said recited Acts Recited Acts which are now in force, shall be deemed and taken to be in full to continue in force, except force, save and except when the same are altered by this Act; and that so much of the said recited Act as relates to the interpretation 20 of certain words therein mentioned, shall be applied to the interpretation of the same words where used in this Act.

as hereby altered.

And be it Enacted, That this Act shall commence and take effect Commence. from and after the Tenth day of October, in the year One thousand eight hundred and Forty.

Sale of Beer.

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BILLL

To alter and amend the Laws relating to the Sale of Beer.

(Prepared and brought in by Mr. Pakington, Lord Francis Egerton, and Mr. Sanford.)

Ordered, by The House of Commons, to be Printed, 7 March 1839.

93.



[AS AMENDED BY THE COMMITTEE]

To alter and amend the Laws relating to the Sale of Beer.

[N.B.—The Clauses marked (A.) to (Q.) were added by the Committee.]

Preamble: of his late Majesty King WILLIAM the Fourth, intituled, "An Act to permit the general Sale of Beer and Gider by Retail in England:" And whereas another Act was passed in the fourth and fifth 4 & 5 Will. 4, c. 85. years of the reign of his said late Majesty, intituled, "An Act to amend an Act passed in the first Year of his present Majesty, to permit the general Sale of Beer and Cider by Retail in England:" And whereas it is expedient to alter and amend the said last-mentioned Acts; BE it therefore Enacted, by The QUEEN's most Excellent 10 Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the commencement of this Act the annual duty of Three Pounds Three Shillings, imposed by the said last recited Act upon every Excise License to 15 be taken out by any person for the selling by retail of Beer to be drank or consumed in or upon the house or premises where sold, shall cease and determine, and that in lieu of such duty there shall be levied, collected and paid, for and upon every such License, an excise duty or annual sum of Five Pounds.

License Duty of Three Guineas imposed by 4 & 5
Will. 4, c. 85, en
Sale of Beer to be
drank on the Premises repealed, and a Duty of Five Pounds imposed in lieu thereof.

And be it Enacted, That the said duty shall be under the manage-20 ment of the Commissioners of Excise, and shall be raised, levied, collected, recovered and accounted for, in the same manner and by the same means, and under the same regulations and provisions, 357. pains,

CLAUSE (A.) Duty to be under the management of Commissioners of Excise, and shall be raised and applied in the same manner as the former Duty. pains, penalties and forfeitures, as the duty repealed was raised, levied, collected, recovered and accounted for.

3. CLAUSE (B.) License to retail Beer to be drank on the Premises not to be granted to any but the real resident Occupier, nor in respect of any House rated at less than 15 L per annum with-in the Bills of Mortality; 10 l. in Cities, Towns and Boroughs containing 5,000 Inhabitants; and 5 l. elsewhere.

And be it Enacted, That no License to sell Beer or Cider by retail, to be drank or consumed on the premises, under the said recited Act or this Act, shall be granted to any person who shall not be the 5 real resident holder and occupier of the dwelling-house in which he shall apply to be licensed, nor shall any such license be granted in respect of any dwelling-house which shall not, with the premises occupied therewith, be rated to the poor on a rent or annual value of Fifteen Pounds per annum, at the least, if situated in the cities of 10 London or Westminster, or within any parish or place within the Bills of Mortality, or of Ten Pounds at the least if situate in any city or town corporate, the population of which, according to the last Parliamentary census, shall exceed Five Thousand, or situated within One Mile, by the nearest public street or path, from the place used 15 at the last election as the place of election or polling place of any town having the like population, and returning a Member or Members of Parliament, or of Five Pounds per annum if situated elsewhere; and every License granted contrary hereto shall be null and void.

4 CLAUSE (C.) Persons applying to retail Beer or Cider to be drank on the Premises to produce a Certificate from the Overseer of such person being the real resident Occupier of the House, and of the Amount at which the House is rated.

And be it Enacted, That every person who shall apply to be licensed to retail Beer or Cider to be drank and consumed on the premises, shall produce, to the proper Officer of Excise authorized to grant such Licenses, a certificate in writing from an overseer of the parish, township or place in which he shall reside, certifying that 25 such applicant is the real resident holder and occupier of the house in respect of which he shall apply to be licensed, and the true rent or annual value at which such house, with the premises occupied therewith, is rated to the poor-rates, according to the last rate made and allowed in such parish, township or place for the relief of the 30 poor; and every such certificate shall be deposited and left with the proper Officer of Excise by whom such License shall be granted.

5. CLAUSE (D.) Provision for new Houses occupied since a Rate made.

Provided always, and be it Enacted, That when any person shall become the occupier of a house newly erected, and not yet rated, and shall be desirous of taking out a License to retail therein Beer and 35 Cider, to be drank on the premises, before the making of a new rate, it shall be lawful for the proper Officer of Excise, if the applicant shall in other respects be duly qualified, to grant such License, on the certificate of the Overseer of the Poor, certifying the rent or annual value at not less than that which such house, with the premises occupied therewith, will be rated to the poor in the next rate to be made and allowed: Provided nevertheless, That if such house shall not be rated in such next rate, or shall not be rated at an amount

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amount sufficient under the provisions of this Act to qualify the occupier thereof to obtain a License, the License granted on such certificate of prospective rating shall become void.

AND whereas in some extra-parochial places no assessments are made, or rates collected for the relief of the poor, and it is expedient to provide for persons obtaining Licenses in such places; BE it therefore Enacted, That in any extra-parochial or other place where no rates are made or collected for the relief of the poor, it shall be lawful for the proper Officer of Excise, authorized to grant Licenses, 10 to grant a License to any person to retail Beer or Cider to be drank or consumed on the premises in a dwelling-house, which shall be of the real rent or annual value of Fifteen Pounds, Ten Pounds or Five Pounds respectively, according to the situation thereof as aforesaid; and in such case the person applying for such License shall produce to and deposit and leave with the proper Officer of Excise granting such License a certificate in writing, signed by his landlord and himself, certifying that he has been for Six Months preceding, and then is, the real resident holder and occupier of the dwellinghouse sought to be licensed, and the real and true rent paid for the 20 same, with the premises occupied therewith; or if the person applying for such License shall be the owner of the dwelling-house and premises, then a certificate, signed by two inhabitant householders of the township or place, certifying that the party applying is the owner, and has been for Six Months preceding, and then is, the real resident 25 occupier of the dwelling-house, and the true and real annual value of the same with the premises occupied therewith, according to the best of their judgment and belief.

And be it Enacted, That every Overseer of the Poor who, except for good and reasonable cause, shall refuse to grant a certificate 30 of the rating or assessment of any house and premises when demanded, or who shall falsely certify any house to be rated when the same was not duly rated at the time of the making and allowance of the last rate made and allowed for the relief of the poor, and every Overseer, landlord and other person who shall falsely certify any 35 person to be the real resident holder and occupier of any house contrary to the fact, or falsely certify the rent or annual value at which any dwelling-house and premises shall be rated, or the rent paid for the same, or the annual value thereof, or shall grant any certificate which shall in any other respect be false and untrue, shall forfeit 40 Twenty Pounds.

And be it Enacted, That every person who shall, for the purpose Penalty on forging of obtaining for himself or enabling any other person to obtain a License to retail Beer or Cider to be drank or consumed on the premises, 357.

6. CLAUSE (E.) In extra-parochial Places a License may be granted on the Certificate of the Landlord of the Rent; or, if the party be the owner. of two Inhabitant Householders of the annual Value.

Penalty on Ove refusing to grant Certificates, and on Overseers and other Persons granting false Certificates

or countérfeiting Certificates, and on making use of false Certificates. All

Licenses obtained by false Certificates to be void, and the Person so obtaining a License to be afterwards disqualified from obtaining any License for the sale of Beer or Cider. mises, forge or counterfeit any certificate, or shall produce or make use of any certificate knowing the same to be forged or counterfeit, or the matters certified therein, or any of them, to be false and untrue, shall forfeit Fifty Pounds; and every License for the retail of Beer or Cider, obtained by any person on any such forged, counterfeit or false certificate shall, on the conviction of such person, be void to all intents and purposes, and shall be so adjudged; and every person who shall be convicted of any of the said offences, shall be thereafter disqualified from obtaining any License under the said recited Acts or this Act, to retail Beer or Cider, either to be drank and consumed on the premises or off the premises.

CLAUSE (H.)
On the death of a licensed Person, the Executors or Administrators, or the Widow or Child, may be authorized to sell for the remainder of the License.

And be it Enacted, That upon the death of any person whatever, licensed to retail Beer or Cider under the said recited Acts or this Act, before the expiration of the License, it shall be lawful for the person authorized to grant Licenses to authorize and empower, by 15 endorsement or otherwise as the Commissioners of Excise shall direct, the executors or administrators, or the widow or child of such deceased person, who shall be possessed of and occupy the dwelling-house and premises before used for such purpose, to continue to retail Beer and Cider in the same house and premises during the 20 residue of the term for which such License was originally granted; without taking out any fresh License or payment of any additional duty thereon.

10.
CLAUSE (I.)
Persons licensed to retail Beer or Cider to make entry with the Excise.

And be it Enacted, That every person whatever licensed to retail Beer or Cider under the said recited Act or this Act, shall, in manner of directed by an Act passed in the seventh and eighth years of the reign of his late Majesty King George the Fourth, intituled, "An Act to consolidate and amend the Laws relating to the Collection and Management of the Revenue of Excise throughout Great Britain and Ireland," and by another Act passed in the fourth and fifth 30 years of the reign of his late Majesty King William the Fourth, intituled, "An Act to amend the Laws relating to the Collection and Management of the Revenue of Excise," make entry with the Officers of Excise of every house, cellar, room and place for storing, keeping or retailing Beer or Cider, on pain of forfeiting the penalties 35 imposed by the said last-mentioned Act for making use of any unentered room or place, and all Beer and Cider found in any such unentered house, cellar, room or place shall be forfeited.

CLAUSE (K.)
Penalty on Persons licensed to sell Beer or Cider having Wine, Spirits or Sweets in their entered Premises; and any licensed Person convicted of having Wine, Spirits

And be it Enacted, That if any person licensed to retail Beer or Cider under the said recited Acts or this Act, shall receive into, or 40 keep or have in his possession, in any cellar, room, or place entered for storing, keeping or retailing Beer or Cider, any Wine or Spirits or Sweets, such person shall, in addition to all other penalties, forfeit

forfeit Fifty Pounds, to be recovered and applied under the powers and provisions of the said Acts of the seventh and eighth years of the reign of his said late Majesty King George the Fourth, and the fourth and fifth years of the reign of his said late Majesty King WILLIAM the Fourth; and all Wine and Spirits and Sweets found in any such entered cellars, rooms or places shall be forfeited, and on conviction of any such licensed person in any penalty for having Wine or Spirits or Sweets in his possession, or for selling or retailing Wine or Spirits or Sweets, the License of such person for retailing Beer or Cider shall become null and void, and shall be so adjudged.

or Sweets in their possession, or selling Wine or Spirits without License, to forfeit their License.

And be it Enacted, That it shall be lawful for any Officer of Officers of Excise Excise, at all times during the hours in which any house licensed for the retail of Beer or Cider may be kept open, to enter into every house, cellar, room or place entered for the storing, keep-15 ing or retailing of Beer or Cider, and to make search for and seize all Wine and Spirits and Sweets which may be found in any such house, cellar, room or place, and to examine all Beer or Cider kept therein.

the Premises of Beer Retailers.

20 fourth and fifth years of the reign of his said late Majesty King WILLIAM the Fourth, as enacts, "That it shall be lawful for the Justices of the Peace of every county, riding, division, franchise, liberty, city, town and place, in petty sessions assembled, and they are hereby required, to fix, once a year, within Thirty Days after 25 the passing of this Act in this year, and in every future year in the counties of Middlesex and Surrey within the first. Ten Days of the month of March, and in every other county on some day between the Twentieth day of August and the Fourteenth day of September inclusive, the hours at which houses and premises licensed to sell 30 Beer under this Act shall be opened and closed: Provided always, That any person thinking himself aggrieved by any such order to be so made, may appeal to the Justices of the Peace in Quarter Sessions assembled, at any time within Four calendar Months after the making of such order, giving to the Justices by whom such 35 order shall have been made Fourteen Days' notice of his intention to appeal, and the decision of the said Justices so assembled in Quarter Sessions shall be final and conclusive: Provided also, That the hour so to be fixed for opening any such house shall not in any case be earlier than Five of the clock in the morning, nor for closing 40 the same later than Eleven of the clock at night, or before One of the clock in the afternoon on Sunday, Good Friday, Christmas-day or any day appointed for a public Fast or Thanksgiving; and the hours so fixed from time to time by such Justices, with reference to

the districts and places within their respective jurisdictions, shall be

357-

And be it Enacted, That so much of the said recited Act of the 4 & 5 W. 4. c. 85,

deemed

deemed and taken to be the hours to be observed and complied with under this Act as fully as if the same had been specially appointed by this Act," shall be and the same is hereby repealed.

CLAUSE (N.)
No Person licensed to retail Beer or Cider to forfeit his License for a first Offence against the tenor of his License, and no License to be void unless so adjudged.

And be it Enacted, That no person licensed to retail Beer or Cider under the said recited Acts or this Act shall forfeit his License for a first offence against the tenor or conditions of his License, and no such person shall be deemed to have forfeited his License on any conviction by a Justice or Justices of the Peace for any offence, unless such forfeiture shall be adjudged and declared by the Justice or Justices by whom such person shall be convicted of the offence 10 in respect of which the forfeiture shall be incurred; and when any Justice or Justices of the Peace shall adjudge and declare the License of any person to be forfeited, such Justice or Justices shall cause notice in writing to be immediately given to the Commissioners of Excise within the limits of the chief office of Excise, 15 or to the Collector of Excise out of such limits, of such adjudication.

CLAUSE (O.)
Penalties under this Act, where not otherwise directed, to be recovered under the Provisions of the former Acts.

And be it Enacted, That all penalties and forfeitures by this Act imposed, except where otherwise specially directed, shall be sued for, recovered, mitigated and applied in the same manner and by 20 the same means as the penalties imposed by the said recited Acts of the first and fourth and fifth years of the reign of his late Majesty King William the Fourth are directed to be sued for, recovered, mitigated and applied; and all the powers, provisions, authorities and regulations in the said Acts contained for the recovery, mitigation and application of penalties shall, except where otherwise specially directed, extend to and be put in force, as to penalties imposed by this Act, as fully and effectually as if they were herein repeated and re-enacted.

16.
CLAUSE (P.)
Justices assembled
at the general
Annual License
Meeting under
9 Geo. 4, c. 61, may
fix the Hours for
opening and closing
Inns, Ale-houses
and Beerhouses.

And be it Enacted, That it shall be lawful for the Justices of the 30 Peace of every county, riding, division, city and town, assembled at their respective annual meetings holden for the purpose of granting Licenses to persons keeping or about to keep inns, alehouses and victualling-houses under the provisions of an Act passed in the ninth year of the reign of his late Majesty King 35 Grorge the Fourth, intituled, "An Act to regulate the granting of Licenses to Keepers of Inns, Ale-houses and Victualling-houses in England," and they are hereby required, to fix the hours at which houses licensed as inns, ale-houses or victualling-houses, and houses licensed for the sale of Beer and Cider, under the said first 40 recited Acts and this Act, shall be opened and closed; and every keeper of any inn, ale-house or victualling-house, and every person licensed to sell Beer and Cider under the provisions aforesaid, who

shall keep his house open contrary to any regulations made and published by the said Justices at any such meeting, shall for every such offence forfeit Ten Pounds: Provided always, That the regulations to be made and the hours to be fixed shall apply, without distinction, to all houses, whether licensed as inns, ale-houses and victualling-houses, or for the sale of Beer and Cider only, save that exception may be made for the reception of travellers in inns, ale-houses and victualling-houses.

And be it Enacted, That this Act shall commence and take effect from and after the Tenth day of October One thousand eight hundred and Forty.

17. Commencement of Act.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed during this present Session of Parliament.

18.
CLAUSE (Q.)
Act may be altered or repealed in the present Session.

Sale of Beer.

[AS AMENDED BY THE COMMITTEE]

To alter and amend the Laws relating to the Sale of Beer.

(Prepared and brought in by Mr. Pakington, Lord Francis Egerton, and Mr. Sanford.)

Ordered, by The House of Commons, to be Printed, 27 June 1839.

357.





A

To make perpetual an Act of the first year of Her present Majesty, for exempting certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury.

PERCAS by an Act passed in the first year of the reign Preamble:

1 Vict. c. 80. of Her present Majesty, intituled, "An Act to exempt certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury," it was enacted, that Bills of Exchange payable at or within Twelve Months, should not be liable, for a limited time, to the Laws for the prevention of Usury:

And whereas the duration of the said Act was limited to the First day of January One thousand eight hundred and Forty; and it is expedient that the provisions thereof should be made perpetual;

BE it therefore Enacted, by The QUEEN's most Excellent 10 Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the said recited Act Recited Act shall be and the same is hereby made perpetual.

made perpe-

Bills of Exchange.

3 I L I

To make perpetual an Act of the first year of Her present Majesty, for exempting certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury.

(reparea and brought in by
Mr. Chancellor of the Exchequer, Mr. Baring,
and Mr. Wurburton.)

Ordered, by The House of Commons, to be Printed,
6 June 1839.

294.

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INTITULED,

AN ACT to amend (1) an Act of the First Year of Her present Majesty, for exempting certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury.

[Note.—The Figures in the Margin denote the Number of Presses in the Ingrossment.] [N. B.—The Words printed beneath a Black Line were struck out, and the Words and Clause printed in Italics were added, by The Lords.]

DORCAS by an Act passed in the first year of the reign of Her present Majesty, intituled, "An Act to exempt 1 Vict. e. 80. certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury," it was enacted, that Bills of Exchange payable at or within Twelve Months should not be liable, for a limited time, to the Laws for the prevention of Usury: And whereas the duration of the said Act was limited to the First day of January One thousand eight hundred and Forty, and it is expedient that the said Act should be amended; (2) 15 t therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the passing of this Act no Bill of Exchange or Promissory Note made payable at or within Twelve Months after the date thereof, or not having more than Twelve Months to run, shall

by.

(1) and make perpetual

⁽²⁾ and the provisions thereof should be made perpetual; 359. ←

Months Date exempted from Laws relating to Usury.

by reason of any interest taken thereon or secured thereby, or any agreement to pay or receive or allow interest in discounting, negociating or transferring the same, be void, nor shall the liability of any party to any such Bill of Exchange or Promissory Note be affected, by reason of any Statute or Law in force for the prevention of Usury. nor shall any person or persons or body corporate drawing, acceptng, endorsing or signing any such Bill or Note, or lending, or advancing, or forbearing any Money, or taking more than the present rate of legal interest in Great Britain and Ireland respectively for the loan or forbearance of Money on any such Bill or Note, or upon the security of any Exchequer Bills, or of any Public Annuities transferable at the Bank of England, or at the South Sea House, or upon any India Stock or India Bonds, or Bank Stock or South Sea Stock, or upon any Goods and Merchandize, or Warrants or Bills of Lading, be subject to any penalties under any Statute or Law relating to Usury, or any other penalty or forfeiture; any thing in any Law or Statute relating to Usury, or any other Law whatsoever in force in any part of the United Kingdom, to the contrary notwithstanding.

2. CLAUSE (A.) Continuance of Act.

And be it further Enacted, That this Act shall continue in force until the First day of January One thousand eight hundred and Forty-two.

359. †	Ordered, by The House of Commons, to be Printed, 28 June 1839.	(¹) and make perpetual.	AN ACT to amend(1) an Act of the First Yes of Her present Majesty, for exempting ce tain Bills of Exchange and Promisson Notes from the Operation of the Laws relating to Usury.	INTITULED,	B I L L,	A	Bills of Exchange.
	be Printed,	· .	the First Yexempting ce Rempting ce Promisson		L,	•	. oge.





(No. 2.)

To amend and extend the Provisions of an Act of the First Year of Her present Majesty, for exempting certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

BERCAS by an Act passed in the first year of the Preamble: reign of Her present Majesty, intituled, "An Act to 1 Vict. c. 80. exempt certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury," it was enacted, that Bills of Exchange payable at or within Twelve Months should not be liable for a limited time to the laws for the prevention of Usury: And whereas the duration of the said Act was limited to the First day of January One thousand eight hundred and Forty, and it is expedient that the provisions of the said Act should be extended; BE it therefore Enated, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and Bills of Exafter the passing of this Act, no Bill of Exchange or Promissory Note made payable at or within Twelve Months after the date thereof, or not having more than Twelve Months to run, nor any Contract for the loan or forbearance of Money above the sum of Ten Pounds sterling, shall, by reason of any interest taken thereon or secured thereby, or any agreement to pay or receive or allow **3**69. interest

Usury Laws.

interest in discounting, negotiating or transferring any such Bill of Exchange or Promissory Note, be void, nor shall the liability of any party to any such Bill of Exchange or Promissory Note, nor the liability of any person borrowing any sum of Money as aforesaid, be affected by reason of any Statute or Law in force for the prevention of Usury; nor shall any person or persons, or body corporate, drawing, accepting, endorsing or signing any such Bill or Note, or lending or advancing or forbearing any Money as aforesaid, or taking more than the present rate of legal interest in Great Britain and Ireland respectively for the loan or forbearance 10 of Money as aforesaid, be subject to any Penalties under any Statute or Law relating to Usury, or any other penalty or forfeiture; any thing in any Law or Statute relating to Usury, or any other Law whatsoever in force in any part of the United Kingdom to the contrary notwithstanding: Provided always, That nothing 15 herein contained shall extend to the loan or forbearance of any Money upon security of any lands, tenements or hereditaments, or any estate or interest therein.

Not to affect the Law as to Pawnbrokers.

Provided always, and be it Enacted, That nothing herein contained shall extend, or be construed to extend, to repeal or 20 affect any Statute relating to Pawnbrokers, but that all Laws touching and concerning Pawnbrokers shall remain in full force and effect to all intents and purposes whatsoever as if this Act had not been passed.

3. Continuance.

And be it Enacted, That this Act shall continue in force until 25 the First day of January One thousand eight hundred and Forty-two.

Act may be amended this Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

Bills of Exchange.

(No. 2.

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To amend and extend the Provisions of an Act of the First Year of Her present Majesty, for exempting certain Bills of Exchange and Promissory Notes from the Operation of the Laws relating to Usury.

(Prepared and brought in by
Mr. Chancellor of the Exchequer and
Mr. Baring.)

Ordered, by The House of Commons, to be Printed, 1 July 1839.

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INTITULED.

AN ACT to enable Archbishops and Bishops to raise Money on Mortgage of their Sees, for the purpose of building and otherwise providing fit Houses for their Residence.

明世讯世系台 it is expedient that Powers should be given to Preamble. the Archbishops and Bishops of the several Dioceses in England and Wales to raise Money upon the Security of the Lands and Hereditaments of their respective Sees, for the purpose of taking 5 down and rebuilding or repairing, adding to, altering or improving the Palaces or Mansion Houses, Offices and Outbuildings belonging to their respective Sees, or of providing other Palaces or Mansion Houses, Offices and Outbuildings for the Residence and Occupation of themselves and their Successors: WE it therefore Enacted, by The 10 QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and immediately after the passing of this Act it shall be lawful for the Archbishop or Bishop for the time being of any Diocese 15 in England or Wales, after procuring such certificate and other evidence and obtaining such consents as are hereinafter required, to borrow and take up at interest in the manner hereinafter mentioned, for the purpose of taking down and rebuilding upon the same or any adjacent site or sites, or upon any other land or ground belonging to his See, or of repairing, adding to, altering or improving any palace or manssion-house, offices or outbuildings belonging to his See, or any part or parts thereof, or for the purpose of building upon any land or ground belonging to his See any palace or mansion-house, offices or outbuildings for the residence or occupation of himself and his successors, either in lieu of and in substitution for any palace or mansion-

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Money may mortgage of the possessions of his See, by an Archbishop or Bishop, for rebuilding, &c.
his palace or

or for building a new palace hisoccupation;

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or for purchasing land for a site, &c. house, offices or outbuildings then belonging to his See, or in addition thereto, or for the purpose of purchasing any freehold messuage or mansion-house, offices or outbuildings for the residence or occupation of himself and his successors, either with or without freehold land convenient to be held therewith, and either in lieu of and in substitution for any palace or mansion-house, offices or outbuildings then belonging to his See, or in addition thereto, and (if necessary or expedient) taking down and rebuilding on the same site, or on any other part or parts of the land to be included in such purchase, or repairing, adding to, altering or improving the messuage or mansion-house, offices or outbuildings to be so purchased as aforesaid, or any part or parts thereof, or for the purpose of purchasing any freehold land or ground (either with or without any building or buildings thereon) as a site for any palace or mansion-house, offices or outbuildings, and for occupation therewith, and building on the said land or ground, or any part 15 or parts thereof, any such palace or mansion-house, offices or outbuildings for the residence or occupation of himself and his successors, either in lieu of and in substitution for any palace or mansion-house, offices or outbuildings then belonging to his See, or in addition to the same, and in order thereto taking down and removing, or repairing, adding to, altering or improving any building or buildings which may be standing upon the said land or ground at the time of such purchase, or any part or parts thereof, any sum or sums of money not being less than Two thousand Pounds nor exceeding Three Years' net income and produce of the revenues of his See, such yearly net income and produce to be reckoned on an average of Three Years, and ascertained and certified in the manner hereinafter mentioned; and as a security for the money so to be borrowed, by indenture or indentures, to be duly sealed and delivered, to demise all or any of the manors, messuages, lands, tenements, tithes, rent-charges in lieu of tithes, rents 30 and hereditaments of or belonging to his See, to any person or persons, or body or bodies politic or corporate, who shall be willing to lend or advance the same, or to such person or persons as such lender or lenders may nominate or appoint, for any term or terms of years, but to be subject to a proviso or provisoes in such mortgage or mortgages 35 to be contained for the cessor of every such term or terms of years on payment to the party or parties, body or bodies politic or corporate, who shall advance the same or any part or parts thereof, his, her or their executors, administrators, successors or assigns, of the principal sum or sums so to be borrowed, and such interest as shall become due 40 for the same, at the times and in the manner hereinafter mentioned; (that is to say) the interest thereof, or of so much thereof as from time to time shall remain unpaid, at such rate as shall be agreed upon to be paid by equal half-yearly payments on the days to be therein appointed, the first of such payments to be appointed to be made at the end of Six Months next after the date of the mortgage, and One-

The interest of money borpaid halfyearly, and one-thirtieth part of the rincipal at the end of the

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thirtieth part of the principal money at the end of the Third Year from such date, and a like Thirtieth part of the principal money at the end of each year of the succeeding Twenty-nine Years; which mortgage or mortgages, when so made, after the same shall have been registered in the registry of the Diocese of the Archbishop or Bishop making the same, shall bind every succeeding Archbishop or Bishop in the same See, until the principal money, interest and costs shall be paid off and discharged, as fully and effectually as if such successor had made or executed the same: Provided always, That no messuage, mansion-house, offices, outbuildings or lands shall be purchased under this Act by any Archbishop, except such messuage, mansion-house, offices, outbuildings or land shall be situate within the Province of such Archbishop, nor shall any such messuage, mansion-house, offices or outbuildings be purchased by any Bishop under this Act, except the same shall be situate within the Diocese of such Bishop.

Third year from the day of advancing the same, and a like Thirtieth part at the end of each of the succeeding years.

And be it further Enacted, That for determining the amount raisable by any Archbishop or Bishop under the authority of this Act, the net yearly income and produce of the revenues of his See, on an average of Three Years ending on the Twenty-ninth day of September 20 next before the date of the deed or deeds of mortgage, shall be ascertained and certified, so far as shall be thought necessary for the purpose aforesaid, by the persons hereinafter mentioned; (that is to say) in the case of an Archbishop, by the Archbishops of Canterbury and York for the time being, and in the case of a Bishop, by such Bishop and the Archbishop of the Province for the time being; and that every such certificate shall be in writing under the respective hands of the certifying parties, and shall be deposited in the registry of the Diocese of the Archbishop or Bishop making such mortgage or mortgages, for the use and benefit of such Archbishop or Bishop, and his successors, executors or administrators, and of the person or persons, or body or bodies politic or corporate by whom the mortgage money shall be advanced, and his or their executors, administrators, successors and assigns who shall respectively have a right to inspect the same, and take copies thereof whenever occasion shall require; and that every such certificate so made and deposited as aforesaid shall for the purposes of the mortgage or mortgages to which the same shall relate be conclusive evidence of the amount of the net yearly income and produce of the revenues of the said See.

2.
How net
yearly income
and produce
of a See to be
ascertained.

Provided always, and be it further Enacted, That no mortgage shall be made under the authority of this Act for any of the purposes aforesaid, until the Archbishop or Bishop desiring to make the same shall have procured from some skilful and experienced architect or surveyor a certificate containing a statement of the propriety and expediency of raising money for the purposes in question, and of the condition of any 269.

Mortgage not to be made without the consent of certain parties.

palace or mansion-house, offices or outbuildings which may be proposed to be taken down and rebuilt, or repaired, added to, altered or improved, or in substitution for which any palace or mansion-house, offices or outbuildings shall be proposed to be built or purchased as aforesaid, and of the value of the timber and other materials belonging to the See (if any) available for the purposes aforesaid or saleable, and a plan and estimate of the works fit and proper to be done for effecting such purposes, and also in the case of a purchase a map or maps under an actual survey of the messuage or mansion-house, offices or outbuildings, land and premises proposed to be purchased as afore- 10 said, and a valuation thereof, and shall have laid the same before the persons hereinafter mentioned; (that is to say) in the case of an Archbishop, before the other Archbishop and the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being, and in the case of a Bishop, before the Archbishop of the Province and the 15 Lord High Treasurer or First Lord Commissioner of the Treasury for the time being, and obtained the consent of the same parties respectively to such mortgage or mortgages as aforesaid, signified by some writing or writings under their respective hands: Provided nevertheless, That if there shall be standing or growing upon any land 20 or ground belonging to the See any timber or other trees or tree which in the judgment of such architect or surveyor ought to be left standing for the ornament or shelter of the palace or mausion-house so proposed to be taken down and rebuilt, or repaired, added to, altered, improved or substituted as aforesaid, such timber and other trees or tree shall 25 not be deemed timber available for the purposes aforesaid or saleable, and the value thereof shall not be computed or reckoned by such architect or surveyor in the certificate hereinbefore required to be given by him: Provided always, That such consents so signified as aforesaid shall discharge the person or persons, or body or bodies politic or corporate, by whom the mortgage money shall be advanced, from all obligation and concern to ascertain or inquire whether any such certificate or other evidence shall have been procured and laid before the consenting parties as aforesaid, or for what purpose the mortgage money shall be raised, or whether such purpose shall be within the 35 true intent and meaning of this Act.

Every mortgage to contain a covenant from the Archbishop or Bishop, to keep down the principal and interest.

And be it further Enacted, That every such mortgage shall contain a covenant from the Archbishop or Bishop making the same, for himself, his heirs, executors and administrators, to pay and keep down so much of the said principal money and interest as shall become payable 4c upon such mortgage or mortgages during the period of his continuance in his said See.

5. Powers of distress and

Provided always, and be it further Enacted, That whenever the principal money or interest to be secured by any such mortgage or mortgages,

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or any part thereof respectively, shall be in arrear and unpaid for more than Forty Days after the same respectively shall become due, it shall be lawful for the mortgagee or mortgagees, his or their executors, administrators, successors or assigns, to recover the same respectively, or so much thereof respectively as shall be then due, together with interest after the rate reserved by the said mortgage upon any instalment of the principal money which shall be so in arrear, and the costs and charges attending the recovery thereof, by distress and sale, in such manner as rents may by law be recovered by landlords from 10 their tenants.

interest should he Forty days

Provided always, and be it further Enacted, That from and after every avoidance of any See the lands and hereditaments whereof shall have been mortgaged as aforesaid, no person or persons, or body or bodies politic or corporate, to whom any such mortgage or 15 mortgages shall have been made, his, her or their executors, administrators, successors or assigns, shall be entitled to recover by distress and sale, in the manner hereinbefore mentioned, any more than One Year's interest, which may have accrued before such avoidance upon any principal sum to be secured by such mortgage or mortgages, or 20 more than One instalment for principal money which shall have fallen due before such avoidance.

Not more than One Year's of avoidance

And be it further Enacted, That the money to be borrowed as aforesaid shall be paid, in the case of an Archbishop, into the hands of such person or persons as shall be nominated or appointed to receive and 25 apply the same for the purposes aforesaid, by the Archbishops of nominees. Canterbury and York for the time being, by some writing under their respective hands, and in the case of a Bishop, into the hands of such person or persons as shall be nominated or appointed to receive and apply the same for the purposes aforesaid by such Bishop, and the Archbishop of the Province for the time being, by some writing under their respective hands, after such nominee or nominees shall have given a bond to the persons so nominating or appointing, with sufficient surety, in a sufficient sum, with a condition for his or their duly applying and accounting for the money which may come to his or their 35 hands under this Act; and the receipt or receipts of the person or persons so to be nominated shall be a sufficient discharge to the person or persons who shall advance and pay the money; and the person or persons so to be nominated shall or may, from time to time, enter into contracts with proper persons for such works as shall from time to 40 time be approved, in the case of an Archbishop, by the Archbishops of Canterbury and York for the time being, and in the case of a Bishop, by the Archbishop of the Province and the Bishop of the Diocese for the time being, and be specified in an instrument or instruments upon parchment, to be signed by them; and also shall or may, with the like approbation, 269.

Money bor-rowed to be hands of a nominee or

approbation, from time to time rescind or vary any such contracts, and shall inspect and have the care of the execution of such contracts. and shall pay the money for such works according to the terms of such contracts; or otherwise shall superintend and inspect such works, and pay for the same, as the said two Archbishops, or the said Archbishop and Bishop for the time being (as the case may be) shall, by some writing or writings under their respective hands, appoint or direct; and shall also pay the consideration money for all such messuages. buildings and lands as shall be purchased under the authority of this Act, to such persons and in such manner as the said two Archbishops, 10 or the said Archbishop and Bishop for the time being (as the case may be) shall in manner aforesaid appoint or direct; and shall also purchase or provide and pay for all such fixtures and fittings as shall be deemed proper and suitable as aforesaid, and shall be approved by the said two Archbishops, or the said Archbishop and Bishop for the 15 time being (as the case may be); and shall pay the costs and charges of any mortgage or mortgages, and of any purchase or purchases which may be made under the authority of this Act, and of procuring any such certificate, plan, estimate, map and valuation as aforesaid, and of making copies thereof; and shall take proper receipts for the money 20 to be so paid or applied as aforesaid; and, so soon as the works and other purposes for which such monies shall have been raised shall be completed, and the money paid, shall make out an account of his or their receipts and payments, and enter them in a book fairly written, which shall be signed by him or them, and, together with the vouchers 25 for such payments, shall be laid before the said two Archbishops, or the said Archbishop and Bishop for the time being (as the case may be), and examined by them, and when allowed by writing under their hands, such allowance to be a full discharge to the person or persons so nominated in respect of the said account; and if any balance shall 30 remain in the hands of such nominee or nominees, after the payments aforesaid, and also after making to him or them such compensation for his or their trouble as the said two Archbishops, or the said Archbishop and Bishop for the time being (as the case may be) shall think reasonable, the same shall be paid in discharge of the principal 35 debt secured by such mortgage or mortgages, so far as such balance will extend to pay the same, and so as to reduce proportionably the annual instalments of such debt, or such of the said instalments as shall not have fallen due; all which accounts, when made out, completed and allowed, shall be deposited, together with the vouchers, in 40 the registry of the Diocese of the Archbishop or Bishop by whom such mortgage or mortgages shall have been made, for the use and benefit of such Archbishop or Bishop and his successors, who shall have a right to inspect the same, and take copies thereof, whenever occasion shall require.

Provided

269

The mortgagor may grant leases not withstanding any such mortgage.

Provided nevertheless, and be it further Enacted, That notwith-standing any such mortgage or mortgages as aforesaid, it shall be lawful for the Archbishop or Bishop who shall have made the same, and his successors, from time to time to make such contracts and agreements for granting leases, and such leases, either under any existing power, or under any power to be hereafter created, or otherwise howsoever, as he or they might have made in case this Act and the said mortgage or mortgages had not been passed or made; and that such mortgage or mortgages shall also be subject to the effect of all such contracts and agreements for leases, and of all such leases, of any of the hereditaments to be included therein, as may have been then already made and may be then subsisting.

And be it further Enacted, That every Archbishop or Bishop making any such mortgage or mortgages as aforesaid, and his successors for the time being, shall and he and they is and are hereby required to pay and discharge yearly at the end of the Third Year from the making of such mortgage or mortgages respectively, and at the end of each year of the succeeding Twenty-nine Years, Onethirtieth part of the principal money thereby to be respectively secured, until the whole of such money shall be discharged, and also from time to time to pay the interest which shall become due on such principal money, or on such part thereof as for the time being shall remain unpaid; and that every such Archbishop or Bishop, and his successors for the time being, shall annually, at his and their own expense, from and immediately after the commencement of any such buildings or other works as aforesaid, except as to any palace. mansion-house, messuage or building which shall be proposed to be entirely taken down, and then from and immediately after the commencement of the rebuilding thereof, and also from and immediately after the entering into any contract or contracts for the purchase of any messuage or building under the authority of this Act, insure and keep insured the whole of the buildings whereon or on any part whereof such works shall have been so commenced, or which shall be comprised in such contract or contracts as aforesaid, at one or more of the public offices in London or Westminster for insuring houses and buildings from loss or damage by fire, in such sum or sums of money as shall be agreed upon, in the case of an Archbishop, by the Archbishops of Canterbury and York for the time being, and in the case of a Bishop, by the Archbishop of the Province, and the Bishop of the Diocese for the time being; and the receipt or receipts for the premium or premiums which shall be paid for effecting or keeping on foot such insurance or insurances respectively shall be annually exhibited by every such Archbishop effecting such insurance or insurances to the other Archbishop for the time being, and by every such Bishop to the Archbishop of 269. A 4 the

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being may
remain unpaid;

and to insure from fire.

the Province for the time being; and in every case of any loss or damage by fire to any of the said buildings, the money to be received under any such insurance or insurances shall be applied, in the case of an Archbishop, by or under the direction of the Archbishops of Canterbury and York for the time being, and in the case of a Bishop, by or under the direction of the Archbishop of the Province and the Bishop of the Diocese for the time being, in or towards the rebuilding or repairing and reinstating of the same.

IO. In case of neglect to insure, and if fire should happen, power given for proceeding against the Archbishop or Bishop by action.

Provided always, and be it further Enacted, That if any such Archbishop or Bishop as aforesaid, or any of his successors, shall 10 neglect to insure or keep insured in manner aforesaid the said buildings or any of them to the full amount which shall be agreed upon as aforesaid, and any loss or damage by fire shall happen thereto, and the Archbishop or Bishop who shall have so neglected, or his heirs, executors or administrators, shall not within Twelve 15 calendar Months next after such fire shall have happened, rebuild or repair and reinstate the building or buildings which shall have been burnt down or damaged by fire, or apply for the purpose such a sum of money as, together with the money, if any, for which the building or buildings so burnt down or damaged by fire shall have 20 stood insured, shall make up the full sum for which the same respectively ought to have been kept insured, it shall be lawful, in the case of an Archbishop, for the other Archbishop for the time being, and in the case of a Bishop, for the Archbishop of the Province for the time being, and they are hereby directed to proceed by action of debt 25 against the Archbishop or Bishop who shall have so neglected, or his heirs, executors or administrators, for the recovery of such a sum of money (not exceeding the sum for which the building or buildings so to be burnt down or damaged by fire ought to have been insured as aforesaid, or the proportion thereof for which the 30 same shall not have stood insured, after deducting therefrom the money, if any, which such Archbishop or Bishop, his heirs, executors or administrators shall have applied towards such rebuilding or repairs and reinstatement as aforesaid) as shall be sufficient to rebuild or repair and reinstate the same; and the money so to be recovered in such action shall be applied, in the case of an Archbishop, by the Archbishops of Canterbury and York for the time being, and in the case of a Bishop, by the Archbishop of the Province and the Bishop of the Diocese for the time being, or under their direction respectively, in or towards rebuilding, repairing and reinstating the 40 building or buildings which shall have been so burnt down or damaged by fire as aforesaid.

11. Upon every vacancy of the See, the Arch-

Provided always, and be it further Enacted, That upon every vacancy which shall happen of any See, the lands and hereditaments whereof whereof shall have been mortgaged under the authority of this Act, before such mortgage or mortgages shall be discharged, the Archbishop or Bishop for the time being avoiding the same, his heirs, executors or administrators, shall pay so much of the half-yearly payment of interest upon the principal money secured by any such mortgage or mortgages accruing and not actually accrued due at the time of his ceasing to be Archbishop or Bishop of the said See, as shall be in proportion to the time which at such avoidance shall have elapsed of the current half year, and shall also (in case such avoidance shall happen after the expiration of the second year from the date of such mortgage or mortgages respectively) pay so much of the annual instalment which shall fall due next after such avoidance of the said See of every principal sum so to be secured as aforesaid, as shall be in proportion to the time which at such avoidance shall have elapsed of the current year.

And be it further Enacted, That if any money shall be raised by

any Archbishop or Bishop under the authority of this Act for the pur-

bishop or Bishop avoiding the same, or his executors, to pay a proportion of the half-yearly interest, and also of the annual instalment of principal.

pose of building or purchasing any palace or mansion-house, offices or outbuildings, in substitution for any palace or mansion-house, 20 offices or outbuildings then belonging to his See, it shall be lawful for any such Archbishop, with the consent of the other Archbishop for the time being, and for any such Bishop, with the consent of the Archbishop of the Province for the time being (such consent to be signified by some writing under the hand of the consenting party), to take down and remove the palace or mansion-house, offices or outbuildings, for which the said palace or mansion-house, offices or outbuildings to be so built or purchased shall be substituted as aforesaid, (if the same or any part thereof cannot be better applied for the permanent advantage of the See), and to apply the materials in or towards 30 any buildings or other works for the purpose of which such money shall be raised as aforesaid, or to sell the same: Provided nevertheless, That all monies to arise by any such sale shall be paid to the person or persons who shall be nominated and appointed as aforesaid to receive the money so to be raised by mortgage, and that the receipt 35 or receipts of such nominee or nominees shall be a sufficient discharge

For removal of buildings, and applying the materials to the purposes of the

And be it further Enacted, That all sums of money recovered or received for dilapidations, by suit, composition or otherwise, from any 269.

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gage or martgages as aforesaid.

or sufficient discharges to the person or persons paying the same, and that such monies shall be applied by such nominee or nominees, in the first place, for all or any of the purposes for which the mortgage money shall be raised, with such approbation and in such manner, and subject to such provisions as hereinbefore is directed and are contained with respect to the money to be raised by any such mort-

ered or Dilapidation monies to be applied for purposes of Act.

former Archbishop or Bishop, or his representatives, and which shall not have been laid out or expended in rebuilding or repairs, shall be paid to the person or persons who shall be nominated or appointed as aforesaid to receive the money so to be raised by mortgage; and the receipt or receipts of such nominee or nominees shall be a sufficient discharge or sufficient discharges to the person or persons paying the same monies; and such monies shall be appled by such nominee or nominees, in the first place, for such purposes and in such manner, and subject to such provisions as are hereinbefore directed and contained with respect to the money to be raised by any such mortgage or mortgages as aforesaid: Provided always, That no person or persons, or body or bodies politic or corporate, who may advance money upon any such mortgage or mortgages as aforesaid, shall be bound to inquire or ascertain whether the monies which may have been recovered or received for dilapidations from any former Archbishop or 15 Bishop, or his representatives, shall have been previously laid out, or expended or paid as aforesaid.

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Mortgagees not bound to inquire whether such sums have been pre-viously so applied.

14. Governors of Queen Anne's Bounty may advance any sum or sums authorized to be raised by this Act.

And be it further Enacted, That it shall be lawful for the Governors of the Bounty of Queen Anne for the augmentation of the maintenance of the Poor Clergy to advance and lend, at One or more time 20 or times, out of the money which has arisen or shall from time to time arise from that bounty, or from grants by Parliament in aid thereof, any sum or sums of money by this Act authorized to be raised; and such mortgage or mortgages as aforesaid shall be made for repayment in manner aforesaid by instalments of the principal sum 25 or sums so to be advanced, with Four Pounds per centum per annum interest for the same respectively, by such half-yearly payments as aforesaid.

15. For appointing new Nominees in certain cases.

Provided always, and be it further Enacted, That if, at any time or times before all the purposes for which any person or persons may have been appointed nominee or nominees under the provisions of this Act shall have been carried into execution, such person or persons, or any nominee or nominees who may have been appointed under this present power, shall die, or decline or become incapable to act, or desire to be discharged from acting in the execution of the purposes for which he or they may have been so appointed, or shall misconduct himself or themselves in the opinion of the two Archbishops or the Archbishop and Bishop (as the case may be) by whom he or they shall have been nominated, or their successors for the time being, then and so often as the same shall happen, it shall be 40 lawful for the said two Archbishops or the said Archbishop and Bishop for the time being (as the case may be), by any writing under their hands, to nominate or appoint any other person or persons in the stead or place of the nominee or nominees who shall so die, or

decline

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decline or become incapable to act, or desire to be discharged, or misconduct himself or themselves as aforesaid; and such person or persons so to be nominated or appointed as last aforesaid, upon giving a bond to the persons so nominating and appointing him or them as aforesaid, with sufficient surety, in a sufficient sum conditioned for his or their duly applying and accounting for any money which may come to his or their hands under this Act, shall and may act or concur in acting in the execution of the purposes of such appointment, with such and the same powers, and in such and the same manner, as if he 10 or they had originally been a nominee or nominees for the purposes aforesaid.

And be it further Enacted, That it shall be lawful for any Arch- Power to bishop, with the consent of the other Archbishop and the Lord High Treasurer or First Lord Commissioner of the Treasury for the build on. 15 time being, and for any Bishop, with the consent of the Archbishop of the Province and the Lord High Treasurer or First Lord Commissioner of the Treasury for the time being, such consents to be signified by some writing or writings under the respective hands of the consenting parties, and also by their respectively being made parties 20 to and executing the deed or deeds by which the purchased property shall be conveyed as hereinafter mentioned, to contract for the absolute purchase of any freehold messuage or mansion-house, offices or outbuildings, or for the absolute purchase of the fee of any copyhold messuage or mansion-house, offices or outbuildings, for the residence 25 or occupation of himself and his successors, either with or without land convenient to be held therewith, and also to contract for the absolute purchase of any freehold land, or of the fee of any copyhold land, either with or without any building or buildings thereon, as a site for a palace or mansion-house, offices or outbuildings, for the residence or occupation of himself and his successors, and for occupation therewith; which said premises so to be purchased shall be conveyed and assured unto and to the use of such Archbishop or Bishop and his successors in the same See, and be for ever thereafter held and enjoyed by him and them respectively, and be and continue 35 annexed to the said See as part of the possessions thereof.

And be it further Enacted, That it shall be lawful for all bodies politic, corporate or collegiate, corporations aggregate or sole, tenants for life or in tail, husbands, guardians, trustees and feoffces in trust, committees, executors and administrators, and all other persons and trustees whomsoever, not only for and on behalf of themselves, their heirs and successors, but also for and on behalf of their cestuique trusts, whether infants, issue unborn, lunatics, idiots, femes covert, or other person or persons, and to and for all femes covert who are or shall be seised, possessed of or interested in any messuages or buildings, 269. lands.

17. legal disability lands, grounds or hereditaments which may be conveniently used or taken for the purposes of this Act, to contract for, sell and convey, or, if copyhold, to enfranchise the same and every part thereof unto such Archbishop or Bishop as aforesaid and his successors; and all such contracts, agreements, sales, conveyances and assurances shall be valid and effectual in the law to all intents and purposes whatsoever, any law, statute, usage or custom to the contrary in anywise not-withstanding; and all bodies politic, corporate or collegiate, and all persons whomsoever, so conveying as aforesaid, are hereby indemnified for or in respect of any such sale which he, she or they, or any of them shall respectively make by virtue or in pursuance of this Act.

5

18.
Application of purchase-money where it exceeds 200 l.

And be it further Enacted, That if any money shall be agreed to be paid for any messuages or buildings, grounds, lands or hereditaments purchased by virtue of the powers of this Act for the 15 purposes thereof, which shall belong to any corporation, trustee, feme covert, infant, lunatic, person or persons under any disability or incapacity as hereinbefore is mentioned, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed be paid into the Bank of England in the 20 name and with the privity of the Accountant-General of the Court of Exchequer, to be placed to his account ex parte the Archbishop or Bishop of the Diocese for whose residence any such messuages, buildings, grounds, lands and hereditaments shall have been purchased, pursuant to the method prescribed by an Act passed in the 25 first year of the reign of his Majesty King George the Fourth, intituled, "An Act for the better securing Monies and Effects paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for the Appointment of an Accountant-General and Two Masters of the said Court, and for other purposes," and the 30 general orders of the said court, and without fee or reward; to the intent that such money shall be applied, under the direction, and with the approbation of the said court, to be signified by an order made upon a petition to be preferred in a summary way by the person or persons who would have been entitled to the rents and profits of the said messuages and buildings, grounds, lands and hereditaments, in the purchase of the land-tax, or towards the discharge of any debt or debts, or such other incumbrance or part thereof, as the said court shall authorize to be paid, affecting the same messuages or buildings, grounds, lands or hereditaments, or affecting other lands and hereditaments standing 40 settled therewith to the same or the like uses, intents and purposes; or where such money shall not be so applied, then the same shall be laid out and invested, under the like direction or approbation of the said court, in the purchase of other lands, tenements or hereditaments, which shall be conveyed to, for or upon such and the like

1 G. 4. c. 35.

uses,

uses, intents and purposes, and in the same manner as the messuages or buildings, grounds, lands and hereditaments which shall be so purchased, stood settled or limited, or such of them as at the time of making such conveyance and settlement shall be existing undetermined and capable of taking effect; and in the meantime and until such purchase shall be made, the same money shall, by order of the said court, upon application thereto, be invested by the said Accountant-General in his name in the purchase of Three per Centum Consolidated or Reduced Bank Annuities; and in the meantime, and 10 until the said Bank Annuities shall be ordered by the said court to be sold for the purpose aforesaid, the dividends and annual produce thereof shall from time to time be paid, by the order of the said court, to the person or persons who would for the time being have been entitled to the rents and profits of the said lands and heredita-15 ments so hereby directed to be purchased in case such purchase or settlement were made.

> than 200 l. but exceeding

And be it further Enacted, That if any money so agreed to be paid for any messuages or buildings, grounds, lands or hereditaments purchased for the purposes aforesaid, and belonging to any corpo-20 ration, or to any person or persons under disability or incapacity as aforesaid, shall be less than the sum of Two hundred Pounds, and shall exceed the sum of Twenty Pounds, the same shall be paid to Three Trustees to be nominated by the person or persons for the time being entitled to the rents and profits of the messuages, 25 buildings, grounds, lands and hereditaments so purchased and approved of by the Archbishop or Bishop for whose residence such messuages, buildings, grounds, lands and hereditaments shall have been purchased, such nomination to be signified by some writing under the hands of the nominating and approving parties, in order that 30 such principal money, and the dividends arising thereon, may be applied in manner hereinbefore directed, so far as the case may be applicable, without obtaining or being required to obtain the direction or approbation of the said Court of Exchequer.

> 20. Where not exceeding 20 1.

Provided always, and be it further Enacted, That where such 35 money so agreed to be paid for any such purchase as aforesaid shall not exceed the sum of Twenty Pounds, then and in all such cases the same shall be paid to the person or persons who would for the time being have been entitled to the rents and profits of the messuages and buildings, grounds, lands or hereditaments so purchased, or in case of infancy, coverture, idiocy, lunacy or other incapacity, then to his, her or their respective guardian or guardians, husband or husbands, committee or committees, trustee or trustees.

269.

Provided

21. Certificate of Cashier, and Receipts of Guardians,&c. to be good discharges.

269.

Provided always, and be it further Enacted, That the certificate of the Cashier of the Bank of England, who shall receive any such purchase money as is hereinbefore directed to be paid into the Court of Exchequer, shall be a sufficient discharge for the purchase money therein certified to be received; and that the receipt in writing of such respective guardian or guardians, husbands or husband, committees or committee, trustees or trustee, for any such purchase money as is hereinbefore directed or authorized to be paid to them or him respectively, shall be a sufficient discharge for the purchase money therein acknowledged to be received.

(Brought from the Lords,
14 May 1839.)

Ordered, by The House of Common, to be Frinted,

AN ACT to enable Archbishops and Bishops to raise Money on Mortgage of their Sees, for the purpose of building and otherwise providing fit Houses for their Residence.

INTITULED,

Bishops' Residence



For safely keeping and authenticating certain Registers of Births or Baptisms, Deaths or Burials, and Marriages.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.

物性取じ知ら by a Commission under the Great Seal, bearing Preamble. date the Thirteenth day of September in the eighth year of the reign of his late Majesty, certain persons therein named were appointed Commissioners for inquiring into the state, custody and authenticity of any Registers or Records of Births or Baptisms, Deaths or Burials, and Marriages lawfully solemnized, as had been kept in England and Wales, other than the Parochial Registers, and the copies thereof deposited with the Diocesan Registrars. and for inquiring whether any and what measures could be bene-10 ficially adopted for collecting and arranging and depositing such Registers or Records, and for considering and advising the proper measures to be adopted for giving full force and effect as Evidence in all Courts of Justice to all such Registers as were found accurate and faithful, and for facilitating the production and 15 reception of the same: And by another Commission under the Great Seal, issued in the first year of Her present Majesty, the powers and duties of the said Commissioners were continued, and whereas there are now about seven thousand Registers in the custody of the said Commissioners, which by their Report to Her 20 Majesty, bearing date the Eighteenth day of June One thousand eight hundred and Thirty-eight, they have recommended to be kept together in some secure place of deposit, and to be deemed 4. to

to be in legal custody, and to be receivable in Evidence in all Courts of Justice, subject to certain conditions and restrictions therein recommended;

Certain registers to be deposited in the custody of the Registrargeneral.

16 th therefore Enacted, by The QUEEN's most Excellent Ma-JESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the Registrar-general of Births, Deaths and Marriages in England shall receive and deposit in the General Register-office all the Registers and Records of Births, Baptisms, Deaths, Burials and Marriages, now in the custody 10 of the Commissioners appointed by Her Majesty as aforesaid, and which they have by their said Report recommended to be kept in some secure place of deposit, and also the several Registers and Records mentioned in the Schedules (H), (I), (P) and (Q), annexed to the said Report of the said Commissioners, and also such 15 other Registers as are hereinafter directed to be deposited with him: Provided, That none of the said Registers or Records not already in the custody of the said Commissioners shall be received by the Registrar-general, unless the person or persons now having the custody thereof shall, within Three calendar Months from 20 the passing of this Act, send the same to the said Commissioners for examination by them.

2. Continuance of Commissioners for Twelve Months.

And be it Enacted, That the said Commissioners shall be continued Commissioners for the purposes hereinafter mentioned, for the space of Twelve calendar Months from the passing of this 25 Act, and they are hereby authorized from time to time during the said Twelve Months to inquire into the state, custody and authenticity of every Register or Record of Birth, Baptism, Naming, Dedication, Death, Burial and Marriage, which shall be sent to them within Three calendar Months from the passing of this Act, and which has not already been examined by them as aforesaid; and such as they shall find accurate and faithful, they shall certify under the hands and seals of Three or more of them (of whom the Registrar-general shall not be one), as fit to be placed with the other Registers and Records hereby directed to be deposited in the said office; and the Registrar-general, upon receiving the said certificate of the said Commissioners, accompanied by an order of One of Her Majesty's Principal Secretaries of State, shall receive such Registers and Records, and deposit them with the Registers and Records which are now in the custody of the said Commissioners.

3.
Declaratory
Provisions as
to the General
Register
Office.

And be it Enacted, That every office or place where any Registers or Records which by this or any other Act are directed to be in the custody of the Registrar-general, shall be deposited by direc-

tion

And be it Enacted, That every office or place where any Registers or Records which by this or any other Act are directed to be in the custody of the Registrar-general, shall be deposited by direction of the Registrar-general, with the approval of the Lord High Treasurer, or Three or more Lords Commissioners of Her Majesty's Treasury, shall be deemed to be a branch or part of the General Register-office, so long as such Registers or Records shall remain therein, and the execution of this Act shall be deemed to be a part of the business of the General Register-office.

10

4.

to the General Register

And be it Enacted, That the said Commissioners shall deliver to the Registrar-general a descriptive List of all the Registers and Records now in their custody, which shall be so deposited with the Registrar-general, containing such particulars, and referring to the Registers and Records, in such manner as in the opinion of the Re-15 gistrar-general shall be sufficient to identify every such Register and Record; and Three or more of the said Commissioners, of whom the Registrar-general shall not be one, shall certify under their hands, upon some part of every separate book or volume containing any such Register or Record, that it is one of the Regis-20 ters or Records mentioned in their said Report, and shall distinguish in which Schedule annexed to their said Report it is mentioned; and in every case in which the Commissioners have reported that certain parts only of such Registers appeared to them to be original or authentic, the Commissioners shall refer in the 25 descriptive List to those parts, in such manner as to identify them to the satisfaction of the Registrar-general; and every Register or Record which may be afterwards deposited with the Registrargeneral by the said Commissioners shall be identified by them in like manner, as nearly as the case will admit.

5.

And be it Enacted, That the Registrar-general shall cause Lists 30 to be made of all the Registers and Records which may be placed in his custody by virtue of this Act, and Indexes of all the entries contained therein; and every person shall be entitled, on payment of the fees hereinafter mentioned, to search the said Lists and In-35 dexes between the hours of Ten in the Morning and Four in the Afternoon of every day except Sundays and Christmas Day and Good Friday, and to have a certified extract of any entry in the said Registers or Records; and for every search in any such Register, Record or Index, shall be paid the sum of and for every such certified extract the sum of and no more.

And be it Enacted, That all Registers and Records deposited in the General Register-office by virtue of this Act, shall be deemed

legal custody.

to be in legal custody, and shall be receivable in evidence in all Courts of Justice, subject to the provisions hereinafter contained; and the Registrar-general shall produce, or cause to be produced, any such Register or Record, on Subpæna or Order of any competent Court or Tribunal, and on payment of a reasonable sum, to be taxed as the Court shall direct, and to be paid to the Registrar-general, on account of the loss of time of the officer by whom such Register or Record shall be produced, and to enable the Registrar-general to defray the travelling and other expenses of such officer.

7. Fees to be accounted for.

And be it Enacted, That every sum received under the provisions of this Act by or on account of the Registrar-general shall be accounted for and paid by the Registrar-general, at such times as the Commissioners of the Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, from time to time shall direct, into the Bank of England, to the credit of Her Majesty's 15 Exchequer, according to the provisions of an Act passed in the fourth year of his late Majesty William the Fourth, intituled "An Act to regulate the Office of the Receipt of His Majesty's Exchequer at Westminster."

4 & 5 W. 4, c. 15.

8. Wilful in jury or forgery of Registers, felony.

And be it Enacted, That every person who shall wilfully destroy 20 or injure, or cause to be destroyed or injured, any Register or Record of Birth or Baptism, Naming or Dedication, Death or Burial or Marriage, which shall be deposited with the Registrargeneral by virtue of this Act or any part thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, 25 any part of any such Register or Record, or shall wilfully insert or cause to be inserted in any of such Registers or Record any false entry of any Birth or Baptism, Naming or Dedication, Death or Burial or Marriage, or shall wilfully give any false certificate, or shall certify any writing to be a copy or extract from any Register 30 or Record, knowing the same Register or Record to be false in any part thereof, or shall forge or counterfeit the seal of the said office, shall be guilty of Felony.

9. Copies to be scaled.

And be it Enacted, That the Registrar-general shall certify all extracts from the Registers or Records deposited or to be deposited 35 in the said office by virtue of the provisions herein contained, by causing them to be sealed or stamped with the seal of the office; and all extracts purporting to be stamped with the seal of the said office shall be received in evidence in all civil cases instead of the production of the original Registers or Records containing such entries, subject nevertheless to the provisions hereinafter contained.

And

deposited to prove them-

And be it Enacted, That every copy of an entry in any of the Books when said Registers or Records shall describe the Register or Record from which it is taken, and shall express that it is one of the Registers or Records mentioned in this Act; and the production of any of the said Registers or Records from the Genaral Register-office in the custody of the proper officer thereof, or the production of the copy of any entry containing such description as aforesaid, and purporting to be stamped with the seal of the said office, shall be sufficient to prove that such Register or Record is one of the Re-10 gisters and Records mentioned in this Act, in all cases in which the Register or Record, or any certified extract therefrom, is herein respectively declared admissible in evidence.

And be it Enacted, That in case any party shall intend to use in Certified evidence on the trial of any cause in any of the Courts of Common 15 Law, or on the hearing of any appeal at any Quarter Sessions, in England or Wales, any extract, certified as hereinbefore mentioned, from any such Register or Record, he shall give notice in writing to the opposite party, his attorney or agent, of his intention to use such certified extract in evidence at such trial or hearing, and 20 at the same time shall deliver to him, his attorney or agent, a copy of the extract and of the certificate thereof; and on proof of such notice and delivery, or on admission of the receipt of such notice and copy, such certified extract shall be received in evidence at such trial or hearing, if the Judge or Court shall be of opinion 25 that such service has been made in sufficient time before such trial or hearing to have enabled the opposite party to inspect the original Register or Record from which such certified extract had been taken.

11. Extracts may be used in Courts of Law and Quarter Sessions upon notice given.

And be it Enacted, That in case any party shall intend to use 30 in evidence on such trial or hearing any original Register or Record (instead of such certified extract), he shall nevertheless, within a reasonable time, give to the opposite party notice of his intention to use such original Register in evidence, together with a copy of a certified extract of the entry or entries which he shall intend to 35 use in evidence.

If the original must never theless be

And be it Enacted, That in case any party shall intend to use in evidence on any examination of witnesses, or at the hearing of any cause in any Court of Equity, any extract certified as hereinbefore mentioned, he shall, Ten clear Days at the least before publication 40 shall pass in any cause where no commission has issued for the examination of the witnesses of the party intending to give such evidence, or where such commission shall issue, then Seven clear Days at the least before the opening of such commission, deliver to the clerk or clerks in Court of the opposite party or parties a notice in writing of his intention to use such certified extract in evidence

Certified Extract may evidence on examination of witnesses, or of the cause in Courts of Equity, upon

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on the examination of witnesses or at the hearing of the cause (as the same may be), and shall at the same time deliver to the clerk of clerks in Court of the opposite party or parties a copy or copies of such extract, and of the certificate thereof, and thereupon such certified extract shall be received in evidence; provided, that at the hearing of the cause the service of such certified copy and notice be admitted or proved.

14.
If the original be used, notice must nevertheless be given.

And be it Enacted, That in case any party shall intend to use in evidence, on such examination or hearing in any Court of Equity, any original Register or Record (instead of such certified extract), 10 he shall nevertheless, within the number of days hereinbefore respectively mentioned, deliver to the clerk or clerks in Court of the opposite party or parties a notice of his intention to use such original Register in evidence, together with a copy of a certified extract of the entry or entries which he shall intend to use in 15 evidence.

15.
Certified
Extract to be used in interlocutory proceedings, and in the Master's Office.

And be it Enacted, That in case any party shall intend to use in evidence upon any petition, motion or other interlocutory proceedings, in any Court of Equity or in the Master's Office, any extract certified as hereinbefore mentioned, he shall produce to the 20 Court or Master (as the case may be) an extract certified as hereinbefore mentioned, accompanied by an affidavit stating the deponent's belief that the entry or entries in the original Register or Record is correct and genuine.

16.
Certified
Extract to be used in
Ecclesiastical
Courts.

And be it Enacted, That in case any party shall intend to use in evidence, in any Ecclesiastical Court, any extract certified as hereinbefore mentioned, he shall plead and prove the same in the same manner, to all intents and purposes, as if the same were an extract from a Parish Register, save and except that any such extract, certified as hereinbefore mentioned, shall be pleaded and 30 received in proof, without its being necessary to prove the collation of such extract with the original Register or Record: Provided always, That the Judge of the Court on cause shown by any party to the suit (or of his own motion when the proceedings are in pænam), may, after publication, issue a monition for the production, 35 at the hearing of the cause, of the original Register containing the entry to which such certified extract relates.

And the Judge may order the production of the original.

And be it Enacted, That in all criminal cases in which it shall be necessary to use in evidence any entry or entries contained in any of the said Registers or Records, such evidence shall be given by 40 producing to the Court the original Register or Record.

18.
Judges may regulate the practice as to

admission of Registers.

17.

originals to be

In criminal cases the

produced.

And be it Enacted, That the Lord High Chancellor and the Master of the Rolls, the Judges of the Superior Courts of Common Law at Westminster, or any Eight or more of them, of whom the chiefs of each of the said Courts shall be Three, and

and also the Judge of the Court of Arches, the Prerogative Court, Court of Peculiars, Consistory Court, and Commissary Court respectively shall and may, by any rule or order to be from time to time by them made, either in Term or Vacation, at any time within Three Years from the passing of this Act, make such alterations, rules and orders for regulating the mode of reception of the said Registers or Records, or copies thereof in evidence, in their respective Courts, and for regulating the notice hereinbefore directed to be given and the costs of producing such Registers or 10 Records or copies thereof, as to them shall seem expedient, which rules, orders and regulations shall be laid before both Houses of Parliament, and shall take effect within Six Weeks after the same shall have been so laid before Parliament, and shall thereupon be binding and obligatory upon the said respective Courts, and be of 15 the like force and effect as if the provisions contained therein had been expressly enacted hereby.

And be it Enacted, That the several Registers and Records of Births and Baptisms, Marriages, Deaths and Burials of British subjects, now in the custody of the Bishop of London, and transmitted to the Registry of the Diocese of London from parts beyond the Seas (and particularly specified in Schedule (M.) of the said Report), shall be transferred by the Registrar of the said Diocese to the custody of the Registrar-general, who is hereby directed to receive the same; and all such Registers, Records and certified extracts therefrom, shall be receivable in evidence in all Courts of Justice, subject to the same conditions and regulations as are hereby enacted with respect to the Registers and Records now in the custody of the said Commissioners.

beyond Seas.

And be it Enacted, That the several Registers, and Records of 30 Baptisms and Marriages performed at the Fleet and King's Bench Prisons, at May Fair, and at the Mint, in Southwark and elsewhere, which were deposited in the Registry of the Bishop of London, in the year One thousand eight hundred and twenty-one, by one of Her Majesty's Secretaries of State, shall be transferred from the said Registry to the custody of the Registrar-general: Provided nevertheless, That nothing herein contained shall extend to give to such Registers and Records, or any of them, any greater validity as evidence than they now possess.

And be it Enacted, That this Act may be amended or repealed Act may be amended or by any Act to be passed in this Session of Parliament.

repealed.

Registers of Births, &c.

BILL

For safely keeping and authenticating certain Registers of Births or Baptisms, Deaths or Burials, and Marriages.

(Prepared and brought in by Lord John Russell and Mr. Fox Maule.)

Ordered, by The House of Commons, to be Printed,
8 February 1839.

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A

[AS AMENDED BY THE COMMITTEE]

For safely keeping and authenticating certain Registers of Births or Baptisms, Deaths or Burials, and Marriages.

[N. B.—The Clause marked (A.) was added by the Committee.]

負性版 **使** 和 by a Commission under the Great Seal, bearing Preamble. date the Thirteenth day of September in the seventh year of the reign of his late Majesty, certain persons therein named were appointed Commissioners for inquiring into the state, custody and authenticity of any Registers or Records of Births or Baptisms. Deaths or Burials, and Marriages lawfully solemnized, as had been kept in England and Wales, other than the Parochial Registers, and the copies thereof deposited with the Diocesan Registrars, and for inquiring whether any and what measures could be bene-10 ficially adopted for collecting and arranging and depositing such Registers or Records, and for considering and advising the proper measures to be adopted for giving full force and effect as Evidence in all Courts of Justice to all such Registers as were found accurate and faithful, and for facilitating the production and reception of the same: And by another Commission under the Great Seal, issued in the first year of Her present Majesty, the powers and duties of the said Commissioners were continued, and whereas there are now about seven thousand Registers in the custody of the said Commissioners, which by their Report to Her 20 Majesty, bearing date the Eighteenth day of June One thousand eight hundred and Thirty-eight, they have recommended to be kept together in some secure place of deposit, and to be deemed 61. to

evidene, or where such commission shall issue, then Seven clear Days at the least before the opening of such commission, deliver to the clerk or clerks in Court of the opposite party or parties a notice in writing of his intention to use such certified extract in evidence on the examination of witnesses or at the hearing of the cause (as the same may be), and shall at the same time deliver to the clerk or clerks in Court of the opposite party or parties a copy or copies of such extract, and of the certificate thereof, and thereupon such certified extract shall be received in evidence; provided, that at the hearing of the cause the service of such certified copy and no- 10 tice be admitted or proved by affidavit.

14. If the original be used notice must nevertheless be given.

And be it Enacted, That in case any party shall intend to use in evidence, on such examination or hearing in any Court of Equity, any original Register or Record (instead of such certified extract), he shall nevertheless, within the number of days hereinbefore 15 respectively mentioned, deliver to the clerk or clerks in Court of the opposite party or parties a notice of his intention to use such original Register in evidence, together with a copy of a certified extract of the entry or entries which he shall intend to use in evidence.

15. Certified Extract to be used in interlocutory proceedings and in the Master's Office.

And be it Enacted, That in case any party shall intend to use in evidence upon any petition, motion or other interlocutory proceedings, in any Court of Equity or in the Master's Office, any extract certified as hereinbefore mentioned, he shall produce to the Court or Master (as the case may be) an extract certified as here- 25 inbefore mentioned, accompanied by an affidavit stating the deponent's belief that the entry or entries in the original Register or Record is correct and genuine.

16. Certified Extract to be **Ecclesiastical** Courts.

And be it Enacted, That in case any party shall intend to use in evidence, in any Ecclesiastical Court, any extract certified as 30 hereinbefore mentioned, he shall plead and prove the same in the same manner, to all intents and purposes, as if the same were an extract from a Parish Register, save and except that any such extract, certified as hereinbefore mentioned, shall be pleaded and received in proof, without its being necessary to prove the collation 35 of such extract with the original Register or Record: Provided always, That the Judge of the Court on cause shown by any party to the suit (or of his own motion when the proceedings are in pœnam), may, after publication, issue a monition for the production, at the hearing of the cause, of the original Register containing the 40 entry to which such certified extract relates.

And the Judge may order the production of the original.

> And be it Enacted, That in all criminal cases in which it shall be necessary to use in evidence any entry or entries contained in any of the said Registers or Records, such evidence shall be given by producing to the Court the original Register or Record.

17. In criminal cases the originals to be produced.

And

20

tion of the Registrar-general, with the approval of the Lord High Treasurer, or Three or more Commissioners of Her Majesty's Treasury, shall be deemed to be a branch or part of the General Register-office, so long as such Registers or Records shall remain therein, and the execution of this Act shall be deemed to be a part of the business of the General Register-office.

And be it Enacted, That the said Commissioners shall from time to time deliver to the Registrar-general a descriptive List or Lists of all the Registers and Records now in their custody, and also of deposited. 10 all the Registers and Records which shall be so certified, as fit to be placed with the other Registers and Records in the General Register-office, containing such particulars, and referring to the Registers and Records, in such manner as in the opinion of the Registrar-general shall be sufficient to identify every such Register 15 and Record; and Three or more of the said Commissioners, of whom the Registrar-general shall not be one, shall certify under their hands, upon some part of every separate book or volume containing any such Register or Record, either that it is one of the Registers or Records deposited in the General Register-office 20 pursuant to this Act; and in every case in which the Commissioners shall certify to the Registrar-general as aforesaid, that certain parts only of such Registers or Records appear to them to be original or authentic, the Commissioners shall refer in the descriptive List or Lists, and also in the certificate upon such book 25 or volume to those parts, in such manner as to identify them to the satisfaction of the Registrar-general.

Commis-

And be it Enacted, That the Registrar-general shall cause Lists to be made of all the Registers and Records which may be placed in his custody by virtue of this Act; and every person shall be entitled, on payment of the fees hereinafter mentioned, to search the said Lists and any Register or Record therein mentioned, between the hours of Ten in the Morning and Four in the Afternoon of every day except Sundays and Christmas Day and Good Friday, but subject to such regulations as may be made from time to time by the Registrar-general, with the approbation of one of Her Majesty's Principal Secretaries of State, and to have a certified extract of any entry in the said Registers or Records; and for every search in any such Register or Record shall be paid the sum of One Shilling, and for every such certified extract 40 the sum of Two Shillings and Sixpence, and no more.

5. Indexes to be

And be it Enacted, That all Registers and Records deposited in the General Register-office by virtue of this Act, shall be deemed 61. Λ 2

legal custody.

to be in legal custody, and shall be receivable in evidence in all Courts of Justice, subject to the provisions hereinafter contained; and the Registrar-general shall produce, or cause to be produced, any such Register or Record, on Subpœna or Order of any competent Court or Tribunal, and on payment of a reasonable sum, to be taxed as the Court shall direct, and to be paid to the Registrar-general, on account of the loss of time of the officer by whom such Register or Record shall be produced, and to enable the Registrar-general to defray the travelling and other expenses of such officer.

7.
Fees to be accounted for.

And be it Enacted, That every sum received under the provisions of this Act by or on account of the Registrar-general shall be accounted for and paid by the Registrar-general, at such times as the Commissioners of the Her Majesty's Treasury of the United Kingdom of Great Britain and Ireland, from time to time shall direct, into the Bank of England, to the credit of Her Majesty's 15 Exchequer, according to the provisions of an Act passed in the fourth year of his late Majesty King William the Fourth, intituled "An Act to regulate the Office of the Receipt of His Majesty's Exchequer at Westminster."

4 & 5 W. 4, c. 15.

8.
Wilful injury
or forgery of
Registers,
felony.

And be it Enacted, That every person who shall wilfully destroy 20 or injure, or cause to be destroyed or injured, any Register or Record of Birth or Baptism, Naming or Dedication, Death or Burial or Marriage, which shall be deposited with the Registrargeneral by virtue of this Act or any part thereof, or shall falsely make or counterfeit, or cause to be falsely made or counterfeited, 25 any part of any such Register or Record, or shall wilfully insert or cause to be inserted in any of such Registers or Record any false entry of any Birth or Baptism, Naming or Dedication, Death or Burial or Marriage, or shall wilfully give any false certificate, or shall certify any writing to be an extract from any Register 30 or Record, knowing the same Register or Record to be false in any part thereof, or shall forge or counterfeit the seal of the said office, shall be guilty of Felony.

9. Copies to be

And be it Enacted, That the Registrar-general shall certify all extracts which may be granted by him from the Registers or 35 Records deposited or to be deposited in the said office by virtue of the provisions herein contained, by causing them to be sealed or stamped with the seal of the office; and all extracts purporting to be stamped with the seal of the said office shall be received in evidence in all civil cases instead of the production of the original Registers or Records containing such entries, subject nevertheless to the provisions hereinafter contained.

And

deposited to

And be it Enacted, That every extract granted by the Registrar- Books when general from any of the said Registers or Records shall describe prove themthe Register or Record from which it is taken, and shall express that it is one of the Registers or Records deposited in the General Register-office under this Act; and the production of any of the said Registers or Records from the General Register-office in the custody of the proper officer thereof, or the production of any such certified extract containing such description as aforesaid, and purporting to be stamped with the seal of the said office, shall be sufficient to prove that such Register or Record is one of the Registers and Records deposited in the General Register-office under this Act, in all cases in which the Register or Record, or any certified extract therefrom, is herein respectively declared admissible in evidence.

And be it Enacted, That in case any party shall intend to use in 15 evidence on the trial of any cause in any of the Courts of Common Law, or on the hearing of any matter which is not a criminal case at any Session of the Peace in England or Wales, any extract, certified as hereinbefore mentioned, from any such Register or 20 Record, he shall give notice in writing to the opposite party, his attorney or agent, of his intention to use such certified extract in evidence at such trial or hearing, and at the same time shall deliver to him, his attorney or agent, a copy of the extract and of the certificate thereof; and on proof by affidavit of the service, 25 or on admission of the receipt of such notice and copy, such certified extract shall be received in evidence at such trial or hearing, if the Judge or Court shall be of opinion that such

service has been made in sufficient time before such trial or hearing to have enabled the opposite party to inspect the original Register 30 or Record from which such certified extract had been taken, or within such time as shall be directed by any Rule to be made as

hereinafter provided.

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Certified Extracts may Courts of Law and Quarter Sessions upon

And be it Enacted, That in case any party shall intend to use If the original in evidence on such trial or hearing any original Register or Re- must never must never cord (instead of such certified extract), he shall nevertheless, within a reasonable time, give to the opposite party notice of his intention to use such original Register in evidence, and deliver to such opposite party a copy of a certified extract of the entry or entries which he shall intend to use in evidence.

be used, notice

And be it Enacted, That in case any party shall intend to use in Certified evidence on any examination of witnesses, or at the hearing of any cause in any Court of Equity, any extract certified as hereinbefore mentioned, he shall, Ten clear Days at the least before publication shall pass in any cause where no commission has issued for the examination of the witnesses of the party intending to give such evidence,

Extract may be used in evidence on examination of witnesses, or at the hearing Equity, upon notice.

evidene, or where such commission shall issue, then Seven clear Days at the least before the opening of such commission, deliver to the clerk or clerks in Court of the opposite party or parties a notice in writing of his intention to use such certified extract in evidence on the examination of witnesses or at the hearing of the cause (as the same may be), and shall at the same time deliver to the clerk or clerks in Court of the opposite party or parties a copy or copies of such extract, and of the certificate thereof, and thereupon such certified extract shall be received in evidence; provided, that at the hearing of the cause the service of such certified copy and no- 10 tice be admitted or proved by affidavit.

14. If the original be used, notice must nevertheless be given.

And be it Enacted, That in case any party shall intend to use in evidence, on such examination or hearing in any Court of Equity, any original Register or Record (instead of such certified extract), he shall nevertheless, within the number of days hereinbefore 15 respectively mentioned, deliver to the clerk or clerks in Court of the opposite party or parties a notice of his intention to use such original Register in evidence, together with a copy of a certified extract of the entry or entries which he shall intend to use in evidence.

Certified Extract to be used in interlocutory proceedings, and in the Master's Office.

And be it Enacted, That in case any party shall intend to use in evidence upon any petition, motion or other interlocutory proceedings, in any Court of Equity or in the Master's Office, any extract certified as hereinbefore mentioned, he shall produce to the Court or Master (as the case may be) an extract certified as here- 25 inbefore mentioned, accompanied by an affidavit stating the deponent's belief that the entry or entries in the original Register or Record is correct and genuine.

16. Certified Extract to be used in **Ecclesiastical** Courts.

And be it Enacted, That in case any party shall intend to use in evidence, in any Ecclesiastical Court, any extract certified as 30 hereinbefore mentioned, he shall plead and prove the same in the same manner, to all intents and purposes, as if the same were an extract from a Parish Register, save and except that any such extract, certified as hereinbefore mentioned, shall be pleaded and received in proof, without its being necessary to prove the collation 35 of such extract with the original Register or Record: Provided always, That the Judge of the Court on cause shown by any party to the suit (or of his own motion when the proceedings are in pœnam), may, after publication, issue a monition for the production, at the hearing of the cause, of the original Register containing the 40 entry to which such certified extract relates.

And the Judge may order the production of the original.

> And be it Enacted, That in all criminal cases in which it shall be necessary to use in evidence any entry or entries contained in any of the said Registers or Records, such evidence shall be given by producing to the Court the original Register or Record.

17. In criminal cases the originals to be produced

And

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practice as to dmission of

And be it Enacted, That at any time within Three Years Rules to be from the passing of this Act, such rules may be made by the authority hereinafter specified for regulating the mode of reception of the said Registers or Records, or certified extracts therefrom in evidence, in the Courts hereinafter mentioned, and for regulating the notice hereinbefore directed to be given, and the costs of producing such Registers or Records, or extracts, as shall seem expedient, which rules, orders and regulations shall be laid before both Houses of Parliament, and shall take effect within Six Weeks after the same shall have been so laid before Parliament, and shall thereupon be binding and obligatory upon the said Courts respectively, and be of the like force and effect as if the provisions contained therein had been herein expressly enacted.

CLAUSE (A.)
Who shall make such Rules.

And be it Enacted, That such rules shall be made for the High 15 Court of Chancery by the Lord High Chancellor and the Master of the Rolls, and for the Courts of Queen's Bench, Common Pleas and Exchequer by Eight or more Judges of the last-mentioned Courts, of whom the chiefs of each of the last-mentioned Courts shall be Three, and for the High Court of Admiralty by the Judge 20 of the Court of Admiralty, and for the Ecclesiastical Courts in England and Wales by the Official Principal of the Court of Arches, with the Chancellor of the Diocese of London, and the Commissary of the Diocese of Canterbury, or either of them.

> 20. Registers from beyond Seas.

And be it Enacted, That the several Registers and Records of Births, Baptisms, Marriages, Deaths and Burials of British subjects. now in the custody of the Bishop of London, and transmitted to the Registry of the Diocese of London from parts beyond the Seas (and particularly specified in Schedule (M.) of the said Report), and also the Registers or Records of Births, Baptisms. 30 Deaths, Burials and Marriages of British subjects beyond the seas, now in the custody of the Vicar-general of the Archbishop of Canterbury, shall be respectively transferred by the Registrar of the said Diocese, and by the Vicar-general aforesaid, within Three calendar Months from the passing of this Act, to the custody of the said Commissioners, who are hereby directed to receive the same, and such of them as they shall find accurate and faithful they shall forthwith deposit with the Registrar-general, and shall certify under the hands of Three or more of them, of whom the Registrargeneral shall not be one, that they are fit to be placed with the Registers and Records now in the custody of the said Commissioners, and the Registrar-general, upon receiving the said certificate, accompanied by an order of one of Her Majesty's Principal Secretaries of State, shall receive such Registers and Records and deposit them with the said other Registers and Records.

And

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21. Fleet and May-fair Registers, &c.

And be it Enacted, That the several Registers, and Records of Baptisms and Marriages performed at the Fleet and King's Bench Prisons, at May Fair, and at the Mint, in Southwark and elsewhere, which were deposited in the Registry of the Bishop of London, in the year One thousand eight hundred and twenty-one, by the 5 authority of one of the Secretaries of State, shall be transferred from the said Registry to the custody of the Registrar-general, who is hereby directed to receive the same for safe custody: Provided nevertheless, That nothing herein contained shall extend to give to such Registers and Records, or any of them, any greater validity as 10 evidence than they now possess.

22. Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

Lord John Russell and Mr. Fox Maule.)

The House of Commons, to be Printed

25 February 1839.

For safely keeping and authenticating certain Registers of Births or Baptisms, Deaths or Burials, and Marriages.

[AS AMENDED BY THE COMMITTEE]

Registers of Births, &

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A

To repeal the Duties and Drawbacks of Excise on Bricks, and to grant other Duties and Drawbacks in lieu thereof, and to consolidate and amend the Laws for collecting and paying the said Duties and Drawbacks.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

Drawbacks of Excise on Bricks and to mand the Drawbacks of Excise on Bricks, and to grant other Duties and Drawbacks in lieu thereof, and to consolidate and amend the regulations for the securing and collecting the said Duties, and claiming and paying the said Drawbacks; BE it therefore Chacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the commencement Repeal of 10 of this Act, all the Duties and Drawbacks of Excise on Bricks, and the several Acts and parts of Acts of Parliament following, (that is to say) an Act passed in the second Session of Parliament in the twenty-fourth year of the reign of his late Majesty King George the Third, intituled, "An Act for granting to his Majesty certain Rates and Duties upon Bricks and Tiles made in Great Britain, and for laying additional Duties on Bricks and Tiles imported into the same;" an Act passed in the twenty-fifth year of the reign of his said late Majesty King George the Third, intituled, " An Act to explain and amend an Act made in the Twenty-fourth Year of the Reign of 20 his present Majesty, intituled, 'An Act for granting to his Majesty certain Rates and Duties upon Bricks and Tiles made in Great Britain, and for laying additional Duties on Bricks and Tiles 148. imported

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Duties and Drawbacks, and the Acts for collecting

24 Geo. 3, Scss. 2, c. 24.

25 Geo. 3,



34 Geo. 3, c. 15.

43 Geo. 3, c. 69.

45 Geo. 3, ", c. 50.

8 99612

7 Geo. 4, c. 49.

imported into the same;" an Act passed in the thirty-fourth year of the reign of his said late Majesty, intituled, "Au Act for granting to his Majesty certain additional Duties on Bricks and Tiles made in or imported into Great Britain;" so much of an Act passed in the forty-third year of the reign of his said late Majesty, intituled, "An Act to repeal the Duties of Excise payable in Great Britain, and to grant other Duties in lieu thereof," as grants any Duty or Drawback on Bricks, or relates to the collection or management of such Duty; so much of an Act passed in the forty-fifth year of the reign of his said late Majesty, intituled, "An Act for granting to his Majesty several additional Duties of Excise in Great Britain," as grants any Duty or Drawback on Bricks, or relates to the collection or management of such Duty; and so much of an Act passed in the seventh year of the reign of his late Majesty King George the Fourth, intituled, "An Act to amend several Laws of Excise relating to Bonds on Excise Licenses in Ireland, Tiles and Bricks for draining, Oaths on Exportation of Goods, Permits for the removal of Tea in Ireland, Size of Casks in which Spirits may be warehoused in Scotland and Ireland, the Allowance of Duty on Starch and Soap used in certain Manufactures, and the repayment of Money advanced by Collectors of Excise for Public Works in Ireland," as relates to the Duty on Bricks, shall be and the same are hereby repealed, save and except so far as the same repeal any former Act or part of any Act = Provided always, That any of the said Duties which shall have been charged and incurred, and any arrear thereof, and any fine. penalty or forfeiture which shall have been incurred, and any Drawback which shall be payable in respect of any Bricks removed or exported before the commencement of this Act, shall and may be sued for, recovered, levied and paid, as if this Act had not been passed.

New Duties and Drawbacks.

And be it Enacted, That in lieu of the said Duties and Draw-backs hereby repealed, there shall be raised, levied, collected and paid, the Duties and Drawbacks following; (that is to say)

For and upon every thousand Bricks, of a size not £. s. d. 35 exceeding One hundred and fifty cubic Inches each Brick, which shall be made in Great Britain, or which shall be brought from Ireland into Great Britain, a Duty of - - - - 5 10

For and upon every thousand of Bricks exceeding the foregoing size which shall be made in Great Britain, or which shall be brought from Ireland into Great Britain, a Duty of

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For

For all Bricks made in Great Britain on which the Duties imposed in respect thereof shall have been charged, and which shall be duly removed to Ireland, or exported to Foreign parts as merchandize,

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The Duties a Drawback of paid.

And be it Enacted, That the said Duties and Drawbacks shall be under the management of the Commissioners of Excise, and shall be charged, raised, levied, sued for, collected and applied and paid and accounted for in the same manner as other Duties and Drawbacks under the management of the said Commissioners, and under the provisions of this Act, and the general or special provisions, clauses, enactments, regulations, pains, penalties and forfeitures, contained in any Act or Acts relating to the collection 15 and management of the Revenue of Excise.

Duties and Drawbacks to be under the management of the Commissioners of 24 Geo. 3, Sess. 2, c. 24,

And be it Enacted, That all and every person who shall make Brick-makers or manufacture any Bricks, within Great Britain shall, before he shall begin to make or prepare any such Bricks, make a true and particular entry in writing, signed by such maker of Bricks, or by 20 each such maker, in case of partnership, and setting forth his or their place or places of abode of every field, shed, work-house, room, or other place where such Bricks are intended to be made, or prepared for making, by delivering such entry to the officer of Excise in whose survey his field, shed, work-house, room or other 25 place shall be situated, and in default thereof, such person shall forfeit for every unentered field, shed, work-house, room or other place, One hundred Pounds, together with all Bricks made, or preparing for making, found therein.

cise of their Brick Fields. 24 Geo. 3, Sess. 2, c. 24,

And be it Enacted, That it shall be lawful for any officer of Excise at all times, upon his request, to enter into any field, shed, work-house, room or other place made use of by any maker of Bricks for the making or preparing of any Bricks, and to examine and inspect every such field, shed, work-house, room or place, and every kiln, stove or clamp thereon or therein, and to examine and, by counting, measuring, or otherwise, to take an account of all Bricks, and the dimensions thereof made or manufactured, or making or preparing by any such maker; and every maker of Bricks into whose field, shed, work-house, room or other place, any officer of Excise shall, on his request, be hindered or prevented from enter-40 ing, shall forfeit One hundred Pounds.

24 Geo. 3.

And be it Enacted, That all Bricks shall be from time to time When Bricks taken an account of, and charged with Duty by the officer of Excise, whilst such Bricks shall be in the operation of drying or hardening in the field, shed, workhouse, room or place, where the Sess. 2, c. 24, same shall be made or prepared or placed to dry and harden after being 319.

Duty.

being turned out of the mould or otherwise made into shape, and before being removed to the kilns or clamps for burning; and every maker of Bricks who shall, by himself or his workmen, molest or hinder any officer of Excise in examining or taking an account of the number, kind or dimensions of such Bricks, in that or in any other stage of the operation of preparing, making or finishing such Bricks, shall forfeit Fifty Pounds.

7.
In charging the Duty on Bricks, Ten per Cent.to be allowed for Waste.
24 Geo. 3, Sess. 2, c. 24, s. 6.

And be it Enacted, That every officer of Excise shall, and he is hereby required, in charging the Duties upon Bricks, to allow to the respective makers thereof Ten Bricks in every One hundred of to such Bricks which such officer shall charge upon the respective makers thereof, when charged in the field, shed, work-house, room, or other place, where placed to dry or harden before burnt, which allowance shall be in full for all waste, losses, or damages whatever.

8. Bricks to be placed in such form, that the Officer may readily and securely take an account of them, and Penalty for placing them irregularly.
25 Geo. 3, c. 66, s. 4.

And be it Enacted, That all Bricks whilst in the operation of drying or hardening in the field, shed, work-house, room or place where made or prepared, or placed to dry and harden, shall be placed, disposed and arranged in such manner and form as that the officer of Excise may readily and securely take an account thereof; and every maker of Bricks, who shall place, dispose or arrange, or cause to be placed, disposed or arranged, any such Bricks in any irregular or unusual manner, so as to render it difficult or insecure for the officer of Excise to take an account thereof, or who shall practise, or endeavour to practise, any art, device or contrivance, by which any officer of Excise may be deceived or prevented from 25 obtaining a true account of any Bricks, shall forfeit Fifty Pounds.

Mould to be provided for determining the Size of irregular shaped Bricks, and whether liable to the higher or lower rate of Duty.

AND whereas Bricks may be made of such a shape that it may be difficult to ascertain with accuracy the true cubical contents thereof, whereby doubts or disputes may arise whether such Bricks are subject to the higher or to the lower rate of Duty im- 30 posed by this Act; BE it therefore Enacted, That every maker of Bricks shall provide, to the satisfaction of the Supervisor of Excise, a mould adapted and proper, and similar to the moulds in ordinary use by such maker for forming and turning out a Brick Ten Inches long, Three Inches thick, and Five Inches wide; which mould, 35 when approved of by the Supervisor of Excise, shall be stamped or branded by him with the word "Excise," and shall be delivered into the custody of such maker, to be by him kept for the use of the officer surveying such maker of Bricks; and if any dispute shall arise as to whether any such Bricks are of a greater size than 40 One hundred and fifty cubic Inches, and so subject to the higher rate of Duty, the officer of Excise shall take indifferently from the quantity of Bricks, the size whereof shall be disputed, three Bricks, and shall press the clay composing each of such three Bricks into the said mould, and turn the same out as a Brick; and if upon such three

three trials, any two of such Bricks, or the clay composing the same respectively, shall not be more than sufficient to fill such mould, and form a Brick of the dimensions of Ten Inches long, Three Inches thick, and Five inches wide, the whole of such, Bricks shall be deemed and taken to be Bricks not exceeding One hundred and Fifty cubic Inches, and subject to the lower rate of Duty; but if any two of such Bricks, or the clay composing the same respectively shall be more than sufficient to fill such mould, so that a larger Brick than of the dimensions aforesaid would be produced if the whole 10 of such Brick, or the clay composing the same, were pressed into a mould of sufficient capacity to receive the whole of such Brick or clay, then the whole quantity of the Bricks in dispute shall be deemed and taken to be Bricks exceeding One hundred and Fifty cubic Inches, and subject to the higher rate of Duty, and shall be 15 charged with Duty accordingly.

And be it Enacted, That every such mould so approved of by the Supervisor of Excise, and stamped or branded with the word "Excise," shall be kept safely and securely by the maker of Bricks, into whose custody the same shall be delivered, and shall at 20 all times be produced to any Officer of Excise demanding the same; and every maker of Bricks who shall injure or damage any such mould, or alter the dimensions thereof, or who shall refuse or neglect at any time to produce the same to any officer of Excise on demand, or to suffer or allow any such officer to use 25 the same, or who shall obstruct, oppose or hinder any officer of Excise from or in using the same, or who shall not, by himself or his workmen, if required, aid and assist any officer in using the same, shall forfeit Twenty Pounds.

And be it Enacted, That every maker of Bricks who shall Bricks not to remove, take or carry, or cause to be removed, taken or carried to the kiln, clamp or other place for burning, any Bricks from the field, shed, work-house, room or place where such Bricks shall be placed to dry and harden, before the same shall have been taken account of and charged with Duty by the proper officer of Excise, shall forfeit Fifty Pounds, and all Bricks so removed, taken and carried to the kiln, clamp or other place for burning, shall also be forfeited.

Provided always, and be it Enacted, That no maker of Bricks shall be subject to the said penalty or forfeiture for removing Bricks to the kiln, clamp or other place for burning, if the proper officer of Excise shall have failed to attend and take an account of such Bricks on due notice given to him for that purpose Three Days before such removal, and if such maker shall on the next visit or survey of the officer of Excise, deliver to such officer 319.

The Pattern Mould to be kept securely, and delivered to the Officer on demand. and the Trader and his Workmen to assist the

be **re**moved to the Kiln or Clamp for burning, until charged with Duty. 24 Geo. 3, Sess. 2, c. 24, 8. 7. 25 Geo. 3, c. 66, s. 2.

12. Penalty and to be incurred if the Officer Notice, and the Brickgive him an account of the next Survey.

24 Geo. 3, Sess. 2, c. 24, s. 8. officer an account of the number and sizes of the Bricks so removed.

13. Bricks not charged with Puty, to be the separate from charged Bricks. 24 Geo. 3, Soss. 2, c. 24, s. 9. 25 Geo. 3, c. 66, s. 3.

And be it Enacted, That every maker of Bricks shall at all times keep all such Bricks as shall not have been taken account of and charged with Duty by the proper officer of Excise, separate and apart from all other Bricks which shall have been taken account of and charged with Duty, on pain of forfeiting Twenty Pounds.

Penalty on concealing Bricks to evade the Duty. 24 Geo. 3, Sess. 2, c. 24, s. 10.

And be it Enacted, That every maker of Bricks who shall fraudulently convey away, hide or conceal, or cause to be conveyed 10 away, hidden or concealed, any Bricks, with intent to evade the Duty thereon, or any part thereof, shall, over and above all other penalties, forfeit One hundred Pounds, together with all the Bricks so conveyed away, hidden or concealed.

15. Officer at the end of every Six Weeks to make out a Return of Duty which is to be paid in the next Six Weeks. 24 Geo. 3, Sess. 2, c. 24, ss. 10 & 11.

And be it Enacted, That every officer of Excise under whose 15 survey any maker of Bricks shall be, or any other officer who shall be appointed so to do, shall from time to time, at the expiration of every Six Weeks, or at such other times as the Commissioners of Excise shall direct, make out and deliver to the Collector of Excise, or to such person as the Commissioners of Excise shall 20 appoint to receive the same, an account or return in writing of the number of Bricks made by such maker, and for which he shall have become chargeable with Duty in such preceding Six Weeks or period, and of the Duty payable thereon according to the number and the respective sizes of such Bricks, and shall also leave a copy 25 of such account or return with such maker, and the account or return of such officer shall be a charge on every such maker of Bricks, who shall pay and clear off the Duty appearing by such return to have become due within Six Weeks after such account or return shall have been made, or in default thereof shall forfeit 30 double the amount of such Duty.

16.
All Bricks to be within the Provisions of this Act.

And be it Enacted, That all Bricks of whatever form and in what manner soever made, whether by being pressed in a mould and turned out, or made into shape in any other manner, shall be deemed and taken to be Bricks within the meaning of this Act, 35 and shall be chargeable with the Duties, and the maker thereof subject to the regulations by this Act imposed and provided.

17.
For preventing Bricks being passed under the denomination of Tiles.

AND in order to prevent the Duties hereby imposed from being evaded by Bricks being denominated Tiles, BE it Enacted, That nothing shall be deemed or taken to be a Tile, which shall not, when turned out of the mould (except Tiles for covering houses or buildings)

buildings) be a perfect square, or which shall, when so turned out, be of greater thickness in any one part than One Inch and Seventenths of an Inch, if under Eight Inches square, or of greater thickness in any one part than Two Inches and a Half, if more 5 than Eight Inches square.

18. Bricks may he made Duty free for draining wet and marshy Land. 7 Geo. 4, c. 49

AND whereas it is expedient to exempt from the Duties by this Act imposed Bricks made for the sole purpose of draining wet and marshy land; BE it therefore Enacted, That it shall be lawful for any person to make Bricks for the sole purpose of draining 10 wet and marshy lands without being charged or chargeable with any Duty for or in respect of such Bricks, all such Bricks being in the making thereof stamped or moulded with the word "Drain" in or near the centre of the surface of such Bricks, in so plain and distinct a manner that the same may be easily and clearly 15 legible to any officer of Excise, or other person examining the same, both before and after such Bricks shall have gone through the process of burning and become fit for use: Provided always, That it shall not be lawful for any person to employ or make use of any such Bricks for any other purpose than in draining wet and 20 marshy lands, and in constructing the necessary drains, gouts, culverts, arches and walls of the brickwork, proper and necessarily required for effecting and maintaining the drainage of such lands; and every maker of such Bricks or other person who shall sell or deliver, or use or employ, any Brick with the word "Drain" so 25 stamped or moulded thereon for any other purpose than as aforesaid, shall forfeit Fifty Pounds.

CLAUSE (A.) Entry to be made of and duty paid on Bricks brought from Ireland into Great Britain-

And be it Enacted, That the proprietor or consignee of any Bricks removed from Ireland into Great Britain shall, on the arrival of the ship or vessel at the port or place into which the same 30 shall be brought, make due entry with the Collector or other Officer of Excise appointed to receive the same at such port or place of such Bricks on board such ship or vessel, setting forth the number and sizes of such Bricks, and shall pay the duties on such Bricks; and if, within Twenty-four Hours after the arrival of any ship or vessel, due entry of any Bricks on board thereof brought from Ireland into Great Britain shall not be made, or if any such Bricks shall be removed from the quay, wharf or place where landed before the full Duties thereon shall be fully paid, all such Bricks shall be forfeited and may be seized by any Officer of Excise or Customs; and every person who shall remove or aid or assist in removing any such Bricks before the full Duties thereon shall have been duly paid shall forfeit One hundred Pounds.

And be it Enacted, That every person intending to remove to Notice to be Ireland, or to export to foreign parts as merchandize, any Bricks on Drawback, 319.

20. into, for shipping Bricks to Ireland or Foreign Ports on Drawback.

Drawback, shall, by himself or his agent, give to the export officer of Excise, or officer acting as such, at the port of exportation, a notice in writing of his intention to ship such Bricks Twelve Hours at least before such shipment shall be made, in which notice shall be specified the number of Bricks to be shipped, and the sizes thereof, with the rate and amount of the Duty paid, and of the Drawback claimed thereon, and the value of such Bricks for home consumption, and shall also specify the time of shipment, with the name of the ship, and master thereof, and the quay or place where such vessel is then lying, and from whence the said Bricks are to 10 be shipped, and the port or place to which such Bricks are to be removed or exported; and the person intending to remove or export such Bricks shall also, by himself or his agent, make a declaration before the export officer of Excise, or officer acting as such, under the provisions of an Act passed in the fifth and sixth years of the 15 reign of his late Majesty King WILLIAM the Fourth, intituled, " An Act to repeal an Act of the present Session of Parliament, intituled, 'An Act for the more effectual Abolition of Oaths and Affirmations taken and made in various Departments of the State, and to substitute Declarations in lieu thereof, and for the more 20 entire Suppression of voluntary and extra-judicial Oaths and Affidavits, and to make other Provisions for the Abolition of unnecessary Oaths," " that, to the best of his knowledge and belief, the full Duties of Excise have been charged and secured on all the said Bricks, and shall also give bond, with one or more sufficient surety or 25 sureties to be approved of by the officer appointed by the Commissioners of Excise, to take such bond in Treble the value of the drawback, conditioned that the said Bricks shall with all convenient speed be shipped and removed and exported, and shall not be unloaded, unshipped or re-landed, or put on board any other ship 30 or vessel in Great Britain, shipwreck or other unavoidable accident excepted; and such notice having been given, and declaration made as aforesaid, and such security having been entered into, the officer of Excise receiving the same, shall write his name on the said shipping notice, as a certificate of the requisites aforesaid having 35 been complied with, and shall transmit and forward the said notice, with his name written thereon, to the proper officer of Customs at the port whose duty it may be to attend the shipping of such goods.

Bricks to be shipped in the presence of the Officer of Customs, who is to take an account of them, and certify the Shipment,

And be it Enacted, That the officer of Customs attending on 40 the vessel in which the said Bricks are to be shipped, and to whom the said shipping notice shall be transmitted, shall see the said Bricks shipped, and shall take, or cause to be taken in his presence, an account of the number of such Bricks which may be shipped, and examine the same, or as many thereof as he shall deem neces-

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sary, to ascertain that the sizes thereof correspond with the ship- and Debenping notice; and such officer of Customs having seen the said be granted. Bricks, or as many of them as the vessel may be capable of receiving duly taken account of and shipped, shall certify such shipment, with the number of Bricks shipped, and the sizes thereof, on the said shipping notice, and shall return the same to the Export officer of Excise, or officer acting as such, and such export or other officer having received back the said notice with the said certificate thereon, shall deliver to the exporter or his agent a debenture for the payment in six weeks from the time of shipment of the amount of Drawback on the number of Bricks shipped according to the certificate of the officer of Customs: Provided always, That in case the whole quantity of Bricks of which notice shall have been given shall not be shipped, so that a less amount of Draw-15 back will be payable than stated in the shipping notice, the officer of Excise who shall have received the bond shall, in the marginthereof, or by indorsement thereon, state the real amount of Drawback to be payable, and in such case treble the amount of such real Drawback shall be the penalty of the bond.

Provided always, and be it Enacted, That no debenture for the Debenture 20 payment of Drawback on any Bricks removed to Ireland, or exported to Guernsey, Jersey, Alderney or the Isle of Man, shall be paid, until a certificate shall be produced of the due landing thereof, under the hand of the chief officer of Customs of the port in 25 Ireland, or of the said islands respectively.

22. not to be ranted on Shipments to Ireland, Jersey, Alder-ney or Man, until landing Certificate produced.

23.

And be it Enacted, That no Drawback shall be allowed or Drawback payable on any Bricks having the word "Drain" stamped or moulded thereon, or on any Bricks which shall not be sound and unbroken, and well and perfectly made and manufactured, and Bricks. 30 worth at least the Duties of Excise charged thereon, if sold for home consumption.

> 24. Penalty on fraudulently endeavouring to obtain Drawback.

And be it Enacted, That every person who shall produce to any officer of Excise or Customs to be shipped for removal to Ireland, or exportation on Drawback, any Bricks not entitled to Drawback 35 under the provisions of this Act, or who shall ship for removal to Ireland, or exportation on Drawback, any such Bricks, or who shall fraudulently deposit or remove any Bricks, or use any device or contrivance with intent unduly to obtain any Drawback, or any higher amount of Drawback than he would otherwise be entitled 40 to, shall, over and above all other penalties which he may thereby incur, forfeit treble the amount of the Drawback sought to be obtained, or One hundred Pounds, at the election of the Commissioners of Excise, and all such Bricks shall be forfeited, and may be seized by any officer of Excise or Customs.

319.

And

Brick Duties.

BILI

To repeal the Duties and Drawbacks of Excise on Bricks, and to grant other Duties and Drawbacks in lieu thereof, and to consolidate and amend the Laws for collecting and paying the said Duties and Drawbacks.

(Prepared and brought in by Mr. Baring and Mr. Chancellor of the Exchequer.)

Ordered, by The House of Commons, to be Printed, 27 March 1839.

148



[AS AMENDED BY THE COMMITTEE]

To repeal the Duties and Drawbacks of Excise on Bricks, and to grant other Duties and Drawbacks in lieu thereof, and to consolidate and amend the Laws for collecting and paying : the said Duties and Drawbacks.

[N.B.—The Clause marked (A.) was added by the Committee.]

助 CR CAS it is expedient to repeal the Duties and Prenmble. Drawbacks of Excise on Bricks, and to grant other Duties and Drawbacks in lieu thereof, and to consolidate and amend the regulations for the securing and collecting the said Duties, and claiming and paying the said Drawbacks; BE it therefore Cnacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal. and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from and after the commencement 10 of this Act, all the Duties and Drawbacks of Excise on Bricks, and the several Acts and parts of Acts of Parliament following, (that is to say) an Act passed in the second Session of Parliament in the twenty-fourth year of the reign of his late Majesty King George the Third, intituled, "An Act for granting to his Majesty certain 15 Rates and Duties upon Bricks and Tiles made in Great Britain, and for laying additional Duties on Bricks and Tiles imported into the same;" an Act passed in the twenty-fifth year of the reign of his said late Majesty King George the Third, intituled, " An Act to explain and amend an Act made in the Twenty-fourth Year of the Reign of 20 his present Majesty, intituled, 'An Act for granting to his Majesty certain Rates and Duties upon Bricks and Tiles made in Great Britain, and for laying additional Duties on Bricks and Tiles

Duties and Drawbacks, and the Acts for collecting them.

24 Geo. 3, Scss. 2, c. 24.

25 Geo. 3,

imported

25. Commencement of Act.

And be it Enacted, That this Act shall commence and take effect from and after the Twenty-second day of August One thousand eight hundred and Thirty-nine.

26.
Act may be altered in the present Session.

And be it further Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

(Prepared and brought in by
Mr. Baring and Mr. Chancellor of the

Ordered, by The House of Commons, to be Printed,

14 June 1839

paying the said Duties and Drawbacks.

Drawbacks in lieu thereof, and to consolidate and amend the Laws for collecting and

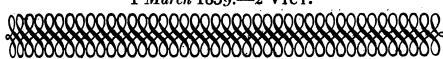
[as amended by the committee]

To repeal the Duties and Drawbacks of Excise

on Bricks, and to grant other Duties and

Brick Duties

31



A

L,

INTITULED,

AN ACT for regulating the Mode of establishing Rules of Proceedings in the Borough Courts of England and Wales.

percent great difficulty has been found in framing legal and convenient Rules for regulating the practice of Borough Courts under the authority given for that purpose by an Act passed in the Session holden in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to provide for the Regulation of Municipal Corporations in England and Wales," and by an Act passed in the Session holden in the sixth and seventh years of the same reign, intituled, "An Act for the better Administration of Justice in certain Boroughs," and it is expedient that the power 10 to make rules for regulating the proceedings of such Gourts, subject to the approbation and confirmation of the Judges of the Superior Courts of Common Law at Westminster, should be explained, and in some respects enlarged; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the 15 Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in every Borough in which by charter or custom there is or ought to be holden a Court of Record for the trial of Civil Actions, every Judge of such court shall have authority to make, alter and revoke such rules for 20 appointing the times of holding such Court, for regulating the forms and manner of proceeding, the process, appearance, practice, and pleadings in such Court, and for settling the reasonable Fees of the Attornies and officers of the court for business transacted therein, as shall from time to time seem to him necessary and proper for expediting the business of such Court with most convenience and at the smallest reasonable expense: Proivded always, That no such Rules,

Preamble:

5 & 6 W. 4,

6 & 7 W. 4,

Judges of Courts of Record in Boroughs empowered Rules for reglating the times of Holding and Practice in said Courts. (6 & 7 W. 4, c. 105, s. 14.)

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ended or of Pu.

Such Rules to be confirmed by three Judges at Westminster.

orany order revoking or altering such Rules, shall be of any force until they shall have been allowed and confirmed by Three of the Judges of the Superior Courts of Common Law at Westminster.

Courts to be held Four times yearly, at intervals of Fourteen Weeks.

Provided also, and be it Enacted, That every such Court shall be holden for the trial of issues of Fact and of Law Four times at least in each year, and with no greater interval between the holding of any two successive Courts than Fourteen Weeks.

Personal
Actions in
such Courts
to be by Summons.
(6 & 7 W. 4,
c. 105, s. 9.)

73.

And be it further Enacted, That from and after the passing of this Act all personal actions brought in the Borough Courts of England and Wales shall be commenced by Writ of Summons.

dered, by The House of Commons, is be Printed, 1 March 1839. (Brought from the Lords 1 March 1839.)

IMTITULED,

AN ACT for regulating the Mode of establishing
Rules of Proceedings in the Borough Courts
of England and Wales.

Borough Courts

(No. 2.)

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INTITULED,

AN ACT for regulating the Proceedings in the Borough Courts of England and Wales.

助此限世系数 great difficulty has been found in framing legal Preamble: and convenient rules for regulating the practice of Borough Courts under the authority given for that purpose by an Act passed in the Session holden in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, intituled, "An Act to provide 5 & 6 W. 4, for the Regulation of Municipal Corporations in England and Wales," and by an Act passed in the Session holden in the sixth and seventh years of the same reign, intituled, "An Act for the better Administration of Justice in certain Boroughs;" and it is expedient that the 10 power to make rules for regulating the Proceedings of such Courts, subject to the approbation and confirmation of the Judges of the Superior Courts of Common Law at Westminster, should be explained, and in some respects enlarged; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and 15 Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in every Borough in which by charter or custom there is or ought to be holden a Court of Record for the trial of civil actions, every Judge of such Court shall have authority to make, alter and revoke such rules for appointing the times of holding such Court, for regulating the forms and manner of proceeding, the process, appearance, practice and pleadings in such Court, and for settling the reasonable fees of the attornies and officers of the Court for business transacted therein, 347.

Judges of Record in Boroughs empowered to make, &c. Rules for regulating the Timesof holding and Prac-Courts. (6 & 7 W. 4, c. 105, s. 14.)

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Such Rules to be confirmed by Three Judges at Westminster. therein, as shall from time to time seem to him necessary and proper for expediting the business of such Court with most convenience, and at the smallest reasonable expense: Provided always, That no such rules, or any order revoking or altering such rules, shall be of any force until they shall have been allowed and confirmed by Three of the Judges of the Superior Courts of Common Law at Westminster.

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2., Courts to be held Four times yearly at intervals of Fourteen Weeks.

Provided also, and be it Enacted, That every such Court shall be holden for the trial of issues of fact and of law Four times at least in each year, and with no greater interval between the holding of any two successive Courts than Fourteen Weeks.

Personal Actions in such Courts to be by Summons. (6 & 7 W. 4, c. 105, s. 9.)

And be it further Enacted. That from and after the First day of .

September next all personal actions brought in the Borough Courts of England and Wales shall be commenced by Writ of Summons.

(No. 2.)

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INTITULED,

INTITULED,

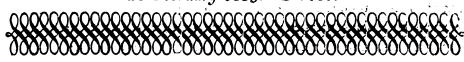
IN ACT for regulating the Proceedings the Borough Courts of England a Wales.

Ordered, by The House of Commons, to be Printed, 21 June 1839.

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 ~ 25 February 1839.—2 $m V_{1CT}$.



For more equally assessing and levying Watch Rates in certain Boroughs. or to the constant that we shall not

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

BERCAS by reason of the restrictions contained in an Preamble: Act passed in the sixth year of the reign of his late 5 & 6 W. 4 Majesty, intituled, "An Act to provide for the Regulation of Muni- c. 76, s. 92. cipal Corporations in England and Wales," the Watch Rate authorized by the said Act to be levied upon those parts of the Boroughs within the provisions of the said Act, which are regularly watched, is insufficient for that purpose, and the deficiency in many cases is paid out of the Borough Rate, to which all parts of the Borough, whether or not regularly watched, are liable:

FOR Remedy thereof,

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BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT after the passing of this Act it shall be lawful for the Council of any Borough named in either of the Schedules to the said Act, or to which a Charter of Incorporation has or shall hereafter be granted under the provisions of the said Act, to levy a Watch Rate upon the occupiers of all messuages, lands, tenements and hereditaments within those parts of the Borough which shall be watched by day and by night, and which from time to time, by any Order of the Council, shall be declared liable to such Watch Rate; and every such Rate shall be made upon an estimate of the net annual value of the several hereditaments rated thereunto, that is to say, of the rent at which, one year with another, the same might in their actual state be reasonably expected to let from year to year, the 60.

Watch Rate not exceeding 6 d. in 1 l.. or in certain cases the average Rate.

the probable annual average cost of the repairs, insurances and other expenses (if any) necessary to maintain the hereditaments in their actual state, and all rates, taxes and public charges, except tithes or tithe commutation rent-charges (if any), being paid by the tenant, and either by One Rate made yearly, or by Two or more Rates made half-yearly, or otherwise: Provided always, That no such Rate shall exceed, in any one year, the rate of Sixpence in the Pound on the net annual value of the hereditaments rated thereunto, unless in those Boroughs in which, at the time of passing the said Act, the sum authorized by the said Act to be levied by way of Watch Rate 10 exceeded the sum which might have been then raised by the said Rate of Sixpence in the Pound; and in such cases as last aforesaid, it shall be lawful to levy a Watch Rate under this Act upon all the hereditaments liable thereunto, at such Rate as would have sufficed to raise such greater sum: Provided also, That nothing herein con- 15 tained shall be deemed to make liable to the Watch Rate any lands, tenements or hereditaments which are now exempted by any Local Act from the payment of Watch Rates, or to alter the comparative liability of any lands, tenements or hereditaments to the Watch Rate, which by any Local Act are now, in respect of any Watch Rate, entitled to 20 any deduction from or chargeable with any increase upon an equal Pound Rate; but the like comparative deductions and increased charges shall be made in respect of such hereditaments in the Rates to which such hereditaments shall be rated under this Act.

2. Councils empowered to levy a Rate for carrying former Act into execution.

And be it Enacted, That it shall be lawful for the Council of any 25 such Borough, at any time within Six calendar Months next after the passing of this Act, to make and levy a Borough Rate upon the whole of such Borough, or upon any parish, township, hamlet, part or district within any such Borough, in which, or in respect whereof, from any error or omission in the said recited Act, or from any other cause 30 whatever, any such Borough Rate could not be assessed or levied, or has not been duly paid for the purpose of defraying any expenses incurred before the passing of this Act, in putting in execution the provisions of the said recited Act.

3
Powers of the Council.

And be it Enacted, That for the purposes aforesaid, the Council of 35 every such Borough, and all other persons interested or concerned therein, shall have all the powers heretofore given to them respectively, in the matter of the Borough Rate and Watch Rate, or either of them, by the said Act or by any other subsequent Act, for ordering, making, assessing, levying, raising, collecting or paying the same, or as near 40 thereto as the nature of the case will admit.

4. Act may be amended or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this Session of Parliament.

Borough Watch Rates.

BIL

For more equally assessing and levying Watch Rates in certain Boroughs.

(Prepared and brought in by Mr. Baines and Mr. Brotherton.)

Ordered, by The House of Commons, to be Printed,
25 February 1839.

60.



A

B

[AS AMENDED BY THE COMMITTEE]

For more equally assessing and levying Watch Rates in certain Boroughs.

Preamble: Act passed in the sixth year of the reign of his late 5 & 6 W. 4, Majesty, intituled, "An Act to provide for the Regulation of Muni- c. 76, s. 92. cipal Corporations in England and Wales," the Watch Rate authorized by the said Act to be levied upon those parts of the Boroughs within the provisions of the said Act, which are regularly watched, is insufficient for that purpose, and the deficiency in many cases is paid out of the Borough Rate, to which all parts of the Borough, whether or not regularly watched, are liable:

FOR Remedy thereof,

10

BE it Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT after the passing of this Act it shall 15 be lawful for the Council of any Borough named in either of the Schedules to the said Act, to levy a Watch Rate, sufficient to defray the necessary expense of effectually watching the same, upon the occupiers of all messuages, lands, tenements and hereditaments within those parts of the Borough which shall be watched by day 20 and by night, and which from time to time, by any Order of the Council of any such Borough, shall be declared liable to such Watch Rate; and every such Rate shall be made upon an estimate of the net annual value of the several hereditaments rated thereunto, that is to say, of the rent at which, one year with another, the same might in their actual state be reasonably expected to let from year to year, 307.

Watch Rate may be levied not exceeding 6 d. in 1 l., or in certain cases the average Rate.

the probable annual average cost of the repairs, insurances and other expenses (if any) necessary to maintain the hereditaments in their actual state, and all rates, taxes and public charges, except tithes or tithe commutation rent-charges (if any), being paid by the tenant, and either by One Rate made yearly, or by Two or more Rates made half-yearly, or otherwise: Provided always, That no such Rate shall exceed, in any one year, the rate of Sixpence in the Pound on the net annual value of the hereditaments rated thereunto, unless in those Boroughs in which, at the time of passing the said Act, the sum authorized by the said Act to be levied by way of Watch Rate 10 exceeded the sum which might have been then raised by the said Rate of Sixpence in the Pound; and in such cases as last aforesaid, it shall be lawful to levy a Watch Rate under this Act upon all the hereditaments liable thereunto, at such Rate as would have sufficed to raise such greater sum: Provided also, That nothing herein con- 15 tained shall be construed to extend to either of the Universities, so as to make the Members thereof liable to pay any Rate to be made in pursuance of this Act, to which the said Universities or the Members thereof were not liable to contribute before the passing of this Act, nor shall be deemed to make liable to the Watch Rate any lands, 20 tenements or hereditaments which are now exempted by any Local Act from the payment of Watch Rates, or to alter the comparative liability of any lands, tenements or hereditaments to the Watch Rate, which by any Local Act are now, in respect of any Watch Rate, entitled to any deduction from or chargeable with any increase upon an equal 25 Pound Rate; but the like comparative deductions and increased charges shall be made in respect of such hereditaments in the Rates to which such hereditaments shall be rated under this Act.

2. Powers of the Council.

And be it Enacted, That for the purposes aforesaid, the Council of every such Borough, and all other persons interested or concerned 30 therein, shall have all the powers heretofore given to them respectively, in the matter of the Borough Rate and Watch Rate, or either of them, by the said Act or by any other subsequent Act, for ordering, making, assessing, levying, raising, collecting or paying the same, or as near thereto as the nature of the case will admit.

Act may be ameaded or repealed.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of Parliament.

35

Borough Watch Rates.

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[AS AMENDED BY THE COMMITTEE]

For more equally assessing and levying Watch Rates in certain Boroughs.

(Prepared and brought in by Mr. Baines and Mr. Brotherton.)

Ordered, by The House of Commons, to be Printed, 12 June 1839.

307



Ā

B I L L

To amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower-Canada.

Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.

the reign of his late Majesty King George the Third, intituled, "An Act to repeal certain Parts of an Act passed in the fourth Year of his Majesty's Reign, intituled, 'An Act for making more effectual Provision for the Government of the Province of Quebec, in North America, and to make further Provision for the Government of the said Province;" whereby, among other things, it was enacted, that there should be within each of the Provinces of Upper Canada and Lower Canada respectively a Legislative Council and an Assembly, to be constituted in manner therein described, and with such powers and authorities as therein mentioned:

And whereas an Act was passed in the last Session of Parliament, intituled, "An Act to make temporary Provision for the Government of Lower Canada;" whereby it was enacted, that from the proclamation 15 of the Act until the First day of November One thousand eight hundred and Forty, so much of the said Act of the thirty-first year of the reign of his Majesty King George the Third, and of any other Act or Acts of Parliament as provides for the constitution or calling of a Legislative Council or Assembly for the Province of Lower Canada, or confers any powers or functions upon them, or either of them, should cease; and by the said Act now in recital provision is made in the meantime for the appointment by Her Majesty of a Special Council for the affairs of Lower Canada, and for the making of Laws or 336.

1 & 2 Vict.



Ordinances for the government of the said Province by the Governor thereof, with the advice and consent of the majority of the Councillors present at any meeting of the Council; and whereas it is expedient that some of the provisions contained in the said lastly recited Act should be altered;

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1. Council always to consist of at least Twenty Members.

BE it therefore Enacted, by The QUEEN's most Excellent MA. JESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT the number of Councillors forming the Special Council in manner provided by the said Act 10 passed in the last Session of Parliament, shall not be less than Twenty.

2. Repeal of Provision of 1 & 2 Vict. c. 9, pre-venting the making of permanent Laws; but all permanent Laws to be assented to by The Queen, after they have been laid Thirty Days before Parliament.

And be it Enacted, That from and immediately after the passing of this Act, so much of the said recited Act passed in the last Session of Parliament as provides that no Law or Ordinance made by the 15 Governor of the said Province of Lower Canada, advice and consent as therein mentioned, shall continue in force beyond the First day of November One thousand eight hundred and Fortytwo, unless continued by competent authority, shall be and the same is hereby repealed: Provided always, That no Law or Ordinance 20 which by the terms and provisions thereof, may be made to continue in force after the said First day of November One thousand eight hundred and Forty-two, shall be confirmed or left to its operation by Her Majosty until such Law or Ordinance shall first have been laid for Thirty Days before both Houses of Parliament.

3. Repeal of the Provision of 1 & 2 Vict. c. 9, prohi-biting Taxation; but no new Tax to be levied, except for Public Works and objects in the Province unconnected with Government, and such Taxes not to be appropriated by Government.

And be it Enacted, That from and immediately after the passing of this Act, so much of the said recited Act passed in the last Session of Parliament as provides that it shall not be lawful by any such Law or Ordinance as therein mentioned to impose any tax, duty, rate or impost, save only in so far as any tax, duty, rate or impost which at 30 the passing of that Act was payable within the said Province of Lower Canada might be continued, shall be and the same is hereby repealed: Provided always, That it shall not be lawful for the said Governor, with such advice and consent as aforesaid, to make any Law or Ordinance imposing or authorizing the imposition of any new tax, 35 duty, rate or impost, except for carrying into effect local improvements within the said Province of Lower Canada, or any district or other local division thereof, or for the establishment or maintenance of Police, or other objects of municipal government, within any City or Town, or District, or other local division of the said Province: 40 Provided also, That no such new tax, rate, duty or impost shall be levied by or made payable to the Receiver-general, or any other public Officer of Her Majesty's Revenue in the said Province, nor shall any such

such Law or Ordinance as aforesaid, provide for the appropriation of any such new tax, duty, rate or impost, by the said Governor, either with or without the advice of the Executive Council of the said Province, or by the Commissioners of Her Majesty's Treasury, or by any other Officer of the Crown.

And be it Enacted, That from and after the passing of this Act, so much of the said recited Act passed in the last Session of Parliament as provides that it shall not be lawful for any such Law or Ordinance as therein mentioned to repeal, suspend or alter any provision of any 10 Act of the Parliament of Great Britain, or of the Parliament of the United Kingdom, or of any Act of the Legislature of Lower Canada, as then constituted, repealing or altering any such Act of Parliament, shall be and the same is hereby repealed: Provided always, That it shall not be lawful for the said Governor, with such advice and con-15 sent as aforesaid, to make any Law or Ordinance altering or affecting the temporal or spiritual rights of the Clergy of the United Church of England and Ireland, or of the Ministers of any other religious communion: Provided also, That if any Law or Ordinance shall be made by the said Governor with such advice and consent as aforesaid, 20 altering or affecting the tenure of Land within the said Province of Lower Canada, or any part thereof, the operation of every such Law or Ordinance shall, by the terms thereof, be suspended for the signification of Her Majesty's pleasure, and no such Law or Ordinance shall be confirmed or left to its operation by Her Majesty until the 25 same shall have been first laid for Thirty Days before both Houses of Parliament.

Repeal of the Provision of 1 & 2 Vict. c. 9, prohibiting the alteration of Acts of Parliament; but no Law to be made affecting the Temporal or Spiritual Rights of Ecclesiastics, or the Law of Tenure, except for the Enfranchisement of Montreal.

And be it Enacted, That every Law or Ordinance to be made by the said Governor, with such advice and consent as aforesaid, shall, before the passing or enactment thereof, be published at length in the public Gazette of the said Province of Lower Canada, and shall not be finally passed or enacted until the expiration of Seven Days from the date of such publication.

Laws to be of no effect till a week after Proclamation.

And be it Enacted, That, for the purposes of this Act, the person authorized to execute the commission of Governor of the Province of Lower Canada, shall be taken to be the Governor thereof.

6.
Definition of the word
Governor.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed during the present Session of Parliament.

7. Act may be amended.

Lower Canada Government.

B I L L

To amend an Act of the last Session of Parliament for making temporary Provision for the Government of Lower Canada.

(Prepared and brought in by

Lord John Russell and Mr. Labouchere.)

Ordered, by The House of Commons, to be Printed, 19 June 1839.

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BILL

For Re-uniting the Provinces of Upper Canada and Lower Canada, and for the Government of the United Province.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

be made for the future good Government of the Provinces of Upper Canada and Lower Canada, in such manner as may best secure the rights and liberties, and promote the interests of all classes of Her Majesty's subjects within the same:

And whereas, for that purpose, it is expedient that the said Two Provinces of Upper Canada and Lower Canada should be reunited, and should form One Province, for the purposes of Executive Government and Legislation, and that provision should also be made for the more effectual advancement and protection of the local interests of the inhabitants in the said Province, by a subdivision of the United Province into Districts, and by the constitution of District Councils:

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341.

And whereas it is expedient that the District and County of Gaspé and the Islands of Madelaine, which now form part of the Province of Lower Canada, should be annexed to the Province and Government of New Brunswick;

MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT on and from the day of

One thousand eight hundred and so much of an Act passed in the Session of Parliament held in the thirty-first year of the reign of King George the Third, intituled,

1. Repeal from 1 March 1842 of part of 31 Geo. 3. c. 31:

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"An Act to repeal certain parts of an Act passed in the fourth year of his Majesty's reign, intituled, 'An Act for making more effectual Provision for the Government of the Province of Quebec in North America,'

and to make further Provision for the Government of the said Province," as constitutes or provides for the constitution or calling together of a Legislative Council or a Legislative Assembly in either of the said Provinces of Upper Canada and Lower Canada respectively, or as confers any powers or functions upon any such Legislative Council or Legislative Assembly, or either of them, or any Member thereof respectively, or as confers any powers or functions on the Governor or Lieu- 10 tenant Governor or person administering the Government of the said Provinces and the Executive Council of the said Provinces respectively, or either of them; and also so much of an Act passed in the third year of the reign of his Majesty King George the Fourth, intituled, "An Act to regulate the Trade of the Provinces of Lower Canada and 15 Upper Canada, and for other Purposes relating to the said Provinces," as relates to the settling of the proportions of duties and drawbacks between the said Two Provinces and the appointment of Arbitrators for that purpose; and also the whole of an Act passed in the Session of Parliament held in the first and second years of the reign of 20 his late Majesty King WILLIAM the Fourth, intituled, "An Act to amend an Act of the Fourteenth Year of his Majesty King GEORGE the Third, for establishing a Fund towards defraying the Charges of the Administration of Justice and the Support of Civil Government in the Province of Quebec in America;" and also so 25 much of all Laws and Ordinances of either of the said Provinces of Upper Canada and Lower Canada as may be contrary to or incon-

sistent with the provisions of this Act, shall and the same are hereby declared to cease and stand repealed; and so much of any Act or Ordinance which may be passed by the Legislature of either of the 30 said Provinces at any time hereafter, and before the First day of January in the year One thousand eight hundred and Forty-two, as shall be contrary to or inconsistent with the provisions of this Act, shall to that extent be null and void: Provided always, That the repeal of the aforesaid several Acts of Parliament and of the said Laws and Ordinances respectively shall not be held to revive or give any force or effect to any other Act of Parliament, Law or Ordinance, or any part thereof, which shall by them or any of them have been repealed

and of part of 3 Geo. 4, c. 119;

and of the whole of 1 & 2 Will. 4, c. 23;

and of all Provincial Laws contrary to the provisious of the Act.

AND whereas his late Majesty King George the Third, by his 40 Proclamation of the Seventh day of October One thousand seven hundred and Sixty-three, was pleased to declare that he had put the Coast of Labrador, from the River Saint John to Hudson's Streights, with the Islands of Anticosti and Madelaine, and all other smaller Islands lying on the said coast, under the care and inspection of the Governor

The District of Gaspé and Islands of Madelaine annexed to the Province of New Brunswick. or determined.

Governor of Newfoundland: And whereas by an Act passed in the fourteenth year of his said late Majesty, intituled, "An Act for 14 Goo. 3, making more effectual Provision for the Government of the Province of Quebec in North America," all such territories, islands and counties as, since the Tenth day of February One thousand seven hundred and Sixty-three, had been made part of the Government of Newfoundland, were, during his said Majesty's pleasure, annexed to and made part of the Province of Quebec, is created by the said Proclamation; BE it Enacted, That on and from the First day of January 10 One thousand eight hundred and Forty-two the District and County of Gaspé in the Province of Lower Canada, and also the said Islands of Madeleine, notwithstanding any thing in the said recited Act of the fourteenth year of King GEORGE the Third contained, shall be annexed to and thenceforth form part of the Province and 15 Government of New Brunswick.

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And be it Enacted, That on and from the said First day of January One thousand eight hundred and Forty-two the Provinces of Upper and Lower Canada shall form and be One Province, and shall be called the "United Province of Canada;" and there shall be one Legis-20 lature for the said United Province, to be constituted as hereinafter mentioned.

Upper and verCanada to form the United Pronada from

I. Formation. and division of the United Province.

And be it Enacted, That the said United Province, with the exception of the Cities of Quebec, Montreal and Toronto, and the Town of Kingston, shall be divided into Five Districts, in each 25 of which shall be a District Council, to be constituted as hereinafter mentioned.

The United Province to be Five Districts.

And be it Enacted, That such Five Districts shall respectively be formed and bounded in such manner as shall be determined by the Arbitrators to be appointed as hereinafter mentioned, provided that such 30 Districts shall be so formed and bounded as to render the number of Electoral Divisions hereinafter mentioned in the Province of Lower Canada as nearly as may be equal to the number of such Electoral Divisions in the Province of Upper Canada.

Districts to and bounded

And be it Enacted, That for the purpose of electing Mem- Nine Elecbers of the House of Assembly, and of the District Councils in the said United Province, each of the said Districts shall be subdivided into Nine Electoral Divisions, which shall be formed and bounded in such manner as shall be determined by the said Arbitrators.

toral Divisions to be formed in each Dis-

AND whereas an Act was passed by the Provincial Legislature of Regard to be had to the pro-Upper Canada, in the sixtieth year of the reign of his Majesty King George 341.

60 Geo. 3.

George the Third, intituled, "An Act for increasing the Representation of the Commons of this Province in the House of Assembly," whereby provision was made for the then present and the future representation of the towns and counties formed or to be formed within the said Province, according to a certain scale therein mentioned; BE it Enacted, That in forming the said Electoral Divisions, regard shall be had, so far as is practicable, to the general principles established by the said Act, so far as the same determine or relate to the proportions to be observed between the number of the Representatives for each of the counties therein mentioned, and the extent of the population and territory comprised in every such county.

8.
Legislature of
United Province
may alter the Districts and Divisions.

And be it Enacted, That it shall be lawful for the Legislature of the United Province to alter the boundaries and the number of the Districts of the said United Province, and also to alter the boundaries, and the number of the Electoral Divisions in any District: Provided 15 always, That any Bill to be passed by the Legislative Council and House of Assembly for the purposes aforesaid, or any of them, shall be reserved for the signification of Her Majesty's pleasure thereon, and it shall not be lawful for Her Majesty to signify Her assent thereto, until after the same shall have been laid before both 20 Houses of Parliament for at least Thirty Days.

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United
rovince.

Governor and Executive Council of United Provinces to have all the powers of Governor and Council of the Two Provinces.

And be it Enacted, That all powers and functions which by the said Act of the thirty-first year of the reign of King George the Third, or by any other Act of Parliament, are vested in, or authorized or required to be exercised by the respective Governors of the said Provinces of Upper Canada and Lower Canada, with the advice of the Executive Council of such Provinces respectively, shall and may, so far as the same are not contrary to or inconsistent with the provisions of this Act, be vested in and exercised by the Governor of the said United Province, with the advice of such Executive Council as may be appointed by Her Majesty for the affairs of the said United Province.

III.
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the United
rovince.

The Legislature of the United Province to consist of the Governor and Legislative Council and House of Assembly.

And be it Enacted, That the Governor of the said United Province, acting in the name and on the behalf of Her Majesty, and a Legislative Council, and a House of Assembly, to be constituted and 35 summoned respectively as hereinafter provided, shall constitute the Legislature of the said United Province.

11.
Constitution of the Legislative Council.

And be it Enacted, That it shall be lawful for Her Majesty, by any Commission to be issued from time to time under the Great Seal of the United Kingdom, or by any instructions under Her Majesty's Sign Manual, to summon, before the time to be appointed for the meeting

meeting of the Legislature in the year One thousand eight hundred and Forty-two and thenceforth from time to time, such and so many persons as to Her Majesty shall seem fit to be Councillors in the said Legislative Council: Provided always, That it shall be lawful for Her Majesty, by any such Commission or Instruction, from time to time to delegate and commit to the Governor of the said United Province the power of summoning, in the name and on the behalf of Her Majesty, any such Councillors, which delegated power shall be exercised by such Governor, subject to any such restrictions in that behalf 10 as shall or may be imposed by any such Commission or Instructions; and provided also, That such Council shall not at any time consist of less than Twenty Councillors.

And be it Enacted, That such persons only shall be capable of being summoned as Members of the Legislative Council of the said United Province as shall have filled, but shall have ceased to hold, the office of Judge of the superior courts of the Provinces of Upper or Lower Canada respectively, or of the United Province, or shall have held or shall at the time of being summoned hold the office of Colonel of Militia, or of Member of the Executive Council, 20 or of the Assembly in either of the Provinces, or in the United Province, or the office of Member of the Legislative Council of either of the said Provinces, or of Chairman of any District Council, or of Mayor of any incorporated town or city within the said Provinces or the said United Province.

Who may be Legislative Councillors.

And be it Enacted, That every Legislative Councillor shall continue in office for the term of Eight Years, to be computed from the date of his being summoned, unless he shall sooner die or resign his office, or forfeit the same in manner hereinafter mentioned, and at the end of Eight Years the appointment of every such Legislative Councillor shall determine: Provided always, That upon such determination of his office, he may immediately, or at any time thereafter, except in cases of death or forfeiture, be again summoned to the same office.

Legislative Councillors to continue in office Eight Years from their appointment.

And be it Enacted, That any Legislative Councillor may resign his office; and if any Legislative Councillor shall after his appointment become Bankrupt or take the benefit of any laws relating to Insolvents, or shall compound with his creditors, or shall be attainted of treason or felony, he shall thereupon and in any such case forthwith forfeit and cease to hold the office of Legislative Councillor.

Legislative Councillors, Bankrupt or Insolvent, or con-victed of Treason or of Felony, to forfeit their office.

And be it Enacted, That in order to constitute a meeting of Five to constitute a the said Legislative Council there shall be Five Councillors at least present, and that no business shall be done and no decision shall be come to by any such meeting unless there shall be Five Councillors present, except adjourning the said meeting.

quorum of the Legis-lative Council.

And

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16.

Governor to appoint the President.

And be it Enacted. That it shall be lawful for the Governor of the United Province from time to time, so often as there shall be occasion, to appoint One of the said Councillors to be the President of the Legislative Council, and also to remove the person so appointed, and to appoint any other of the said Councillors to be such President.

17. President to have a casting Vote.

And be it Enacted, That all questions which shall arise in the said Legislative Council shall be decided by the majority of voices of the Councillors present other than the President; and where the same shall be equal, the President shall have a casting Vote.

18. Assembly to consist of Two Members for each Electoral Division. and of Members for Quebec, Mon-treal, Toronto and Kingston.

And be it Enacted, That the First Assembly of the said United 10 Province that shall be elected under the powers contained in this Act shall consist of Ninety-eight Members, to be chosen as hereinafter mentioned; (that is to say) for every Electoral Division in each District of the said United Province, Two Members shall be elected to represent such Division in the said Assembly; and Two Members shall be elected 15 for each of the Cities of Quebec, Montreal and Toronto, and for the Town of Kingston respectively.

And be it also Enacted, That until provision shall be otherwise made by law within the said United Province, every Assembly thereof other than the first, shall consist of the same number of Members to 20 be chosen as hereinbefore mentioned.

Powers of the Governor of Upper Canada as to summoning the Legislature, and the Laws of Upper Canada as to holding annual Sessions, and the qualification of Members to be extended to the United Pro-

And be it Enacted, That until provision shall be otherwise made by law within the said United Province, all and every the powers now by law vested in the Governor of the Province of Upper Canada for fixing the place and time of holding the Sessions of the Legislature of 25 that Province, and for proroguing any such Session, and for dissolving the said Provincial Legislature, shall be vested in the Governor of the said United Province in respect of the Legislature thereof; and all the laws now in force in the said Province of Upper Canada relating to the holding an annual Session of the said Legislature, or relating to the continuance of the Assembly thereof, or relating to the qualification or disqualification of any person to be elected, or to sit or vote as a Member of the said Assembly, shall extend and be applied to the Legislature of the said United Province and to the Assembly thereof.

20. Existing Election Laws within the Provinces to be applied to the Elec-tion of Members of the Assembly of the United Province.

And be it Enacted, That until provision shall be otherwise made 35 by law within the said United Province, the House of Assembly of the said United Province shall from time to time be summoned to meet for the despatch of business by the Governor of the said United Province, in the same manner and form as is now observed by law by the Governor of the Province of Upper Canada in summoning the 40 Legislature of that Province; and that until provision shall be otherwise made as aforesaid, the Writs for the Election of Mem-

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bers to serve in the said Assembly of the said United Province shall be directed to such person as the Governor shall appoint, by writing under his hand, to be the Returning Officer of each District thereof, and shall be executed within each Electoral Division of every such District by a Returning Officer to be for that purpose appointed by the Returning Officer of the District; and that until provision shall be otherwise made as aforesaid, all the laws now in force within the said Province of Upper Canada, and all the laws which before the passing of an Act made and passed in the last 10 Session of Parliament, intituled, "An Act to make temporary Provision for the Government of Lower Canada," were in force in the said Province of Lower Canada, relating to the forms of Writs for the Election of Members of the Assembly in the said respective Provinces, and to the time within which the same shall be made returnable, and to 15 the manner of executing the same, and to the issuing and execution of new Writs in case of any seat being vacated otherwise than by a dissolution of the Assembly, and to the appointment of the time and the place for holding the Election of Members of the Assembly, and to the conduct of such Elections, and to the payment of any lawful 20 expenses attendant thereon, and to the qualification or disqualification of Voters at any such Elections, and to the oaths to be taken by any such Voters, and to the oaths to be taken by Members of the Assembly, shall be respectively applied to Elections for Members of the Assembly of the United Province, the laws now in force within the 25 Province of Upper Canada in respect of the several matters aforesaid being applied to the Election of Members for any Electoral Division situate within that part of the United Province now forming the Province of Upper Canada; and the laws which, until the passing of the said Act of the last Session of Parliament, were in force within the said 30 Province of Lower Canada in respect of the several matters aforesaid being applied to the Election of Members for any Electoral Division situate within that part of the United Province now forming the Province of Lower Canada: Provided always, That no Elector shall be entitled to more than One right of voting for any One 35 Electoral Division, but that a qualification within the Division which would have been sufficient in amount to have enabled a person to vote at any Election, either for a Town or County in the said respective Provinces, shall entitle the Elector to vote for the Division.

And be it Enacted, That, any thing herein contained to the contrary notwithstanding, it shall be lawful for the Legislature of the said United Province from time to time, by any law or laws to be for that purpose made, to make such provision as to them shall seem meet respecting the number of the Members of the said Assembly, or the time and place of holding the Sessions of the said Legislature, or the prorogation of any such Session, or the dissolution thereof, or the con-

21.
Legislature of United Province may alter the regulations respecting the number of Members of Assembly,

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ment exposes tinuance of the Assembly of the said. United Province, or the relique visco qualification or disqualification of any person to be elected, or to exist site on avote, as a Member of other said Assembly, or the summoning the said Assembly for the despatch (of abusiness, nor the issuing) Writs for other election of Members to serve therein, or the apet 5; pointment of Returning Officers; (of the ! forms of Writs for the! election of Members of the said Assembly, or the making returns told the execution of any such Writs, or the appointment of the time and place for sholding election of Members, of the conduct of such elections, or the payment of any lawful expenses attendant 10. thereon, or the qualification for disqualification of Voters, at any such a election, or the oaths to be taken by any such Voters or by Members of the Assembly; provided that any Bill to be passed by the Legislative Council and House of Assembly affecting the powers of the Governor for fixing the place and time of holding Sessions 15 of the Legislature of the said United Province for prorogaing any such Session, or for dissolving the Provincial Legislature, or relating to a continuance of the Assembly thereof, shall be reserved for the signification of Her Majesty's pleasure thereon, and it shall not be lawful for Her Majesty to signify Her assent thereto until after the 20 same shall have been laid before both Houses of Parliament for at least Thirty Days.

Proviso reserving for the signification of Her Majesty's pleasure any such Bills in certain cases.

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Assembly to elect their Speaker.

And be it Enacted, That the Members of the Assembly shall, upon their first assembling after every general Election, proceed forthwith to elect one of their number as Speaker; and in case of his death, 25 resignation or removal by a vote of the said Assembly, the said Members shall forthwith proceed to elect another of their Members as such Speaker; and the said Speaker shall preside at all meetings of the Assembly.

... 23. Speaker to have a casting Vote; Twenty Members to form a quo-

And be it Enacted, That Twenty Members of the Assembly shall 30 form a quorum thereof, and that all questions which shall arise in the Assembly shall be decided by the majority of voices of such Members as shall be present other than the Speaker, and where the same shall be equal the Speaker shall have a casting voice.

24. Power of Provincial Legislature to make Laws.

And be it Enacted, That it shall be lawful for the Legislature 35 of the United Province to make Laws for the peace, order, welfare and good government of the said United Province and every part thereof, which, when assented to by or on behalf of Her Majesty in manner hereinafter provided, shall be valid and binding to all intents and purposes whatsoever within the said United Province, except in 40 such cases as are by this Act excepted.

25. Governormay assent to or withhold assent from Bills, or may

And be it Enacted, That whenever any Bill which has been passed by the Legislative Council and by the House of Assem-

bly shall be presented for Her Majesty's assent to the Governor of the said United Province, such Governor is hereby authorized and required to declare, according to his discretion, but subject nevertheless to the provisions contained in this Act, and to such instructions as may from time to time be given in that behalf by Her Majesty, that he assents to such Bill in Her Majesty's name, or that he withholds Her Majesty's assent from such Bill, or that he reserves such Bill for the signification of Her Majesty's pleasure thereon; and any Bill assented to by the said Governor shall have full force of law as an 10 Act of the said Legislature, unless and until the same shall be disallowed by Her Majesty in manner and within the time hereinaster

11

mentioned.

Provided always, and be it Enacted, That whenever any Bill shall have been presented for Her Majesty's assent to the Gover-15 nor, and shall have been assented to by him in Her Majesty's name, and shall have thereby become an Act of the Legislature, such Governor shall, by the first convenient opportunity, transmit to one of Her Majesty's Principal Secretaries of State an authentic copy of Two Years. the Act so assented to; and it shall be lawful at any time within 20 Two Years after such Act shall have been received by such Secretary of State for Her Majesty, by Her Order in Council, to declare Her disallowance of such Act, and such disallowance, together with a certificate under the hand and seal of such Secretary of State, testifying the day on which such Act was received as aforesaid, being signified 25 by the Governor by speech or message to the Legislative Council and Assembly of the United Province or by proclamation, shall make void and null the said Act, from and after the date of such signification.

26.

And be it Enacted, That an authentic copy of every Bill which 30 shall be reserved for the signification of Her Majesty's pleasure thereon, shall also be transmitted by the first convenient opportunity to one of Her Majesty's Principal Secretaries of State, and shall not have any force or authority within the said United Province until the Governor shall signify, either by speech or message, to the Legislative Council and Assembly of such Province, or by proclamation, that such Bill has been laid before Her Majesty in Council, and that Her Majesty has been pleased to assent to the same; and an entry shall be made in the Journals of the said Legislative Council of every such speech, message or proclamation, and a duplicate thereof, duly attested, shall be delivered to the proper officer to be kept amongst the public records of the Province; and no Bill which shall be so reserved as aforesaid shall have any force or authority within the said United Province unless Her Majesty's assent shall have been so signified as aforesaid within the space of Two Years from 341.

unless asrithin Two the day on which the transcript of such Bill shall have been received by the Secretary of State for Her Majesty's assent; a certificate of the date of which receipt, under the hand and seal of such Secretary of State, shall be transmitted back to the Governor with Her Majesty's assent to such Bill.

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No Act of the Provincial Legislature to be valid as against this Act or as against any Act regulating Trade, or expressly relating to the Province.

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Provided always, and be it Enacted, That no Act of the Legislature of the United Province shall be valid or binding, or of any force or effect whatsoever, so far as it shall be inconsistent with the provisions of this Act, or inconsistent with the provisions of any Act of Parliament passed or to be passed for the regulation or protection, for imposing or collecting duties in respect of the regulation or protection, of commerce between the said Provinces or United Province and any other part of Her Majesty's dominions, or the dependencies thereof, or between the said Provinces or United Province and any foreign country or state, or for varying such duties or allowing drawbacks thereon, or of any Act of Parliament passed or to be passed which shall, either by express words or necessary intendment, extend to the said Provinces of Upper and Lower Canada or the said United Province.

Nor which may affect the succession to the Crown or Foreign Treaties, or the relations of Peace or War.

Provided also, and be it Enacted, That no Act of the Legisfature of the United Province shall be valid or of any force or effect, so far as it relates to or affects the succession of the Imperial Crown of these realms, or so far as it shall be contrary to or interfere with the operation of any treaty now subsisting or which shall at any time hereafter be concluded between Her Majesty and any foreign state, or shall affect the relations subsisting between Her Majesty and any foreign state in respect of peace or war.

30. Bills affecting any District separately, or the tenure of Land, or the Language in Courts of Justice or Religious or Educational Institutions, to be reserved for Her Majesty's pleasure, if required by an Address of the District Council.

And be it Enacted, That if any Bill shall be passed by the Legislative Council and Assembly of the said United Province which shall not be applicable to the whole Province, and shall affect 30 some One or more District or Districts or other local Division of the said United Province, or if any Bill, whether local or general, shall purport to abolish or alter the tenure upon which lands are holden in any District, or shall provide for any change in the language in which justice is administered within any District, or shall in any way affect 35 the celebration of Divine Worship or any other religious observance, or any existing Institution for the maintenance or advancement of education or religious instruction in any District, then and in such case the Governor of the said United Province shall reserve his the 40 assent to any such Bill for at least Twenty-one Days; and in case District Council of any District affected by any such Bill as aforesaid shall by address to the Governor within the said number of request him to reserve such Bill for the signification of Her Majesty's pleasure,

pleasure, the same shall be reserved accordingly; and it shall not be lawful for Her Majesty to signify Her assent to any such Bill until after the same shall have been laid before both Houses of Parliament for at least Thirty Days.

And be it Enacted, That in every District of the said United Province there shall be a Representative Council, to be called the "District Council."

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31. IV. District Councils established.

And be it Enacted, That every such Council shall consist of Twenty-seven Members and no more, unless otherwise directed by the Legislature of the United Province under the powers vested in them by this Act.

And be it Enacted, That the Governor of the said United Province shall by instructions signed by him, and sent to the Returning Officer of each District, authorize and require the said Returning Officer to summon a District Council to meet on some day in the year One thousand eight hundred and Forty-two and at some place within the District to be mentioned in such instructions.

33.
First Councils to be summoned in 1842.

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32.

To consist of Twentyseven Mem-

And be it Enacted, That every Returning Officer receiving such instructions shall at least Twenty-one Days before the day therein appointed for the meeting of the District Council cause proclamation to be made summoning such Council to meet at the time and place named in the said instructions; and shall also within the same time issue and send to the Returning Officer of each Electoral Division a Writ returnable within Fourteen Days from the date thereof, requiring him to proceed to the Election of Three Members to represent the said Division in the District Council.

Roturning, of Officers to issue Writs for the Election of Members of the District Council,

And be it Enacted, That every Returning Officer shall duly execute such Writ, by giving notice of the time and place of holding the Election for Members for the District Council, in the same mansar ner as in respect of the Election of Members for the Assembly; and that the same laws as are hereinbefore made applicable to the Election of Members for the Assembly shall apply to the Election of Members for the District Council, and to the qualification and disqualification of Members and Voters, and to the oaths to be taken by such Members and Voters respectively; but the expense of such Elections shall be provided for by the District Council out of the monies that shall be raised by them, under the powers of this Act, and so in all future Elections, until the same expenses may be otherwise provided for by the said District Council.

35.
Elections to be had as in Elections for the Assembly.

o And be it Enacted, That every person duly qualified, who shall be elected a Member of any District Council, shall accept such 341.

B 2 office,

36. Persons elected to serve or be fined.

Geveralle may direct Ellestraordinary vacancies Office, or shall in lieu thereof pay such fine, not exceeding the sum of Twenty-five Pounds sterling, to the Treasurer of the District, as the District Council shall by any ordinance appoint; such fine to be recovered by action or suit; to be instituted by the said Treasurer, and to be accounted for by him as part of the District Fund Provided, That no person shall be obliged to accept the said office who shall be distibled by permanent infirmity of body or mind, or shall be above the age of Sixty-five Years, or shall have already served such office, or shall have paid a fine for not serving the same within Five Years from the day on which he shall be re-elected.

37.
One-third of
the District
Councillors to
vacate their
seats each
Year.

gaiAnd bet ill Enected. Thet upon the First day of January in the yeart One shousand eight hundred and Forty-three, and in every susceeding year. One third of the complete number of Councillors in every District Council shall vacate their seats; and that in the said year One thousand eight hundred and Forty-three, and in the next succeeding year, the Members who are so to vacate their seats shall be determined by lot, and thereafter those Members shall vacate their seats who have been Members for the longest time without re-election = Provided always, That every Councillor so going out of office shall be capable of being forthwith re-elected.

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Members in 1844 to vacate by

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Quarterly Meetings to

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And ber it Enacted, That in order to determine the names of the Members who are to vacate their seats as aforesaid, in the years One thousand eight hundred and Forty-three and One thousand eight hundred and Forty-four, the Clerk of the Council or other officer appointed for that purpose shall, before the day appointed for the vacating of the said seats, write the name of every Member on a piece of paper, and shall fold up such piece of paper, and place the same so folded up in a glass or box, from which the names shall be drawn by any person appointed by the said Council for that purpose, and the first and other Members whose names shall be drawn in 30 succession, shall vacate their seats until the whole number of those who are to vacate have been drawn.

Elections to to take place

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And be it Enacted, That on the Fifteenth day of January One thousand eight hundred and Forty-three, and in every succeeding year, there shall be held an Election in each of the Electoral Divisions 35 for which any Member has vacated his seat in manner hereinbefore prescribed, or for which any extraordinary vacancy shall have occurred during the past year and where the seat shall have remained vacant, and the Returning Officer is hereby authorized and required to cause such Election to take place without any special Writ or authority for 40 that purpose, and at the same place and in the same manner in all respects as at the last preceding Election of District Councillors, unless; otherwise lawfully directed as to the place and manner of Election by the Governor of the said United Province.

in the number of Councillors before the annual day, of election hereinbefore appointed, it shall be lawful for the Governor of the said United
Province, if he think fit (and in case the number of such extraordinary
vacancies shall exceed Sir, he is hereby required); to issue a Writ to the
Returning Officer of the Division in which any such vacancy shall have
occorred, directing such Returning Officer to proceed to the Election
of Member or Members to supply such vacancy, which the said
Returning Officer shall proceed forthwith to do in manner hereinbefore directed in respect of other vacancies of Provided always. That
if any such Writ be issued to supply any extraordinary vacancy, a Writ
or Writs shall at the same time be issued to supply all the existing
vacancies: Provided also, That not such Writ shall issue at any
later period in any year than the Twenty-ninth day of September 2 and
every Member elected on such extraordinary vacancy shall vacate his

40.
Governor
may direct
Elections to
fill extraordinary
vacancies.

5V. One-third of the Committee Committee Service Washington Service Washington Service France Committee Co

And be it Enacted, That there shall be held in each Year Four Quarterly Meetings of each of the said District Councils on such and that no previous notice need be given of such Quarterly Meetings; and in respect of all other Meetings of the said District Councils, such notice shall be given thereof, and they shall be summened upon such requisition and in such manner, as by any Ordinance of the said Councils respectively shall be directed or appointed at hetinogram.

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Quarterly Meetings to be held, and such other Meetings as that appoint

And be it Enacted, That each of the said District Councils shall and may, from time to time and so often as shall be necessary, elect a Chairman, who may be also removed by the Council; and such Chairman shall preside at all meetings of the said District Councils.

42.
District
Council to
elect a
Chairman.

And be it Enacted, That Ten Members shall form a Quorum of each of the said District Councils, and that all questions shall be determined by the majority of voices of the Members present at any meeting of the District Council, other than the Chairman; and in case there shall be an equality, the Chairman shall have the casting Vote.

Chairman to have a casting Vote;
Ten Members to form a quorum.

And be it Enacted, That it shall be lawful for every District Council to make Ordinances for providing a suitable Building for the meetings of the said Council, and for maintaining and regulating an effective system of Police within the said District, and for the Paving and Lighting of any Town within the said District, 341.

44.
District
Council,
may make
Ordinances.

and for the making and maintaining or improving of any new or existing Rpad, Street, Railway, Canal or other convenient communications and means of trausit, whether natural or artificial, for passangers, cattle, goods or merchandize, by land or water, within the limits of the said District, and also all Bridges, Viaducts, Tunnels, Cuttings, Embankments and other works connected therewith, or for the stopping up, altering or diverting of any such Road, Street, Railway, Canal or other such communication as aforesaid, and the works connected therewith, and also for any other purpose, matter or thing which shall be specially subjected to the direction and control of the said District Council by any Act of the Legislature of the said United Province.

45. And may raise Money.

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Elleriche Bereicher das Lander Bereicher der Gestellte ... And be it Enacted, That it shall be lawful for the said District Council to make Ordinances directing the levying and assessing and application of Monies, for effecting all or any of the purposes for which they are empowered to make Ordinances as aforesaid, either by imposing tolls and rates, to be paid in respect of any public work, and to be collected and applied as shall be directed by any such Ordinance, or by means of a rate or assessment to be assessed and levicel upon real or personal property within the said District, or upon the owners or occupiers thereof in respect of such property, and to enforce the collection and payment of all such rates and tolls, or such rates and assessments as aforesaid, by reasonable penalties, and also to make Ordinances for the levying of Monies by such rate or assessment as aforesaid, and applying the same in or towards the payment of all necessary expenses incurred or estimated as likely to be incurred for the current year in respect of the local Government of the said District, either on account of the lawful expenses of Returning Officers at Elections of Members for the District Council, or the salaries of Officers. or otherwise bowsoever.

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46.
Clerk and
Treasurer to
be appointed.

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And be it Enacted, That some proper person shall, so soon as may be after the first meeting of each District Council, in the year One thousand eight hundred and Forty-two, be appointed by an Ordinance of the said Council to act as Clerk of the Council, and some other person shall in like manner be appointed to act as Treasurer 35 of the District, with such salaries respectively, and subject to such regulations as may be appointed and declared by the same or any other Ordinance of the said Council; and such Clerk and Treasurer respectively may be removed by a like Ordinance, and some other proper person appointed in their stead respectively, and so from 40 time to time as occasion shall require.

3 33 6 C.

Treasurer to receive and account for Monies received in the District.

And be it Enacted, That the Treasurer of each District shall receive all Monies which shall be raised under any Ordinance of the

the District Council, unless otherwise especially appropriated, and also all Monies which may at any time be directed by the Legislature of the United Province to be paid to any such Treasurer for public objects or purposes within the District, and shall apply and account for the same in manner to be directed by Ordinance of the District Council.

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Provided always, and be it Enacted, That a copy of every Ordinance to be made by any District Council under and by virtue of this Act shall be transmitted by the Chairman with all convenient speed after the making of such Ordinance to the Governor of the said United Province; and it shall be lawful for the said Governor, by writing under his hand, at any time within Two calendar Months after receiving such copy, to certify to the said Chairman his disallowance of any such Ordinance; and thereupon every such Ordinance shall cease to be of any effect, but unless and until so disallowed, every Ordinance to be made by the said District Council under the authority of this Act shall have the full force of law within the District: Provided also, That no Ordinance of any District Council shall be of any force or effect whatsoever, so far as it shall be repugnant to, or impede the full operation within the District of any Act of the Legislature of the United Province.

48. Governor may disallow Ordinances within Two Months after receiving a copy thereof.

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49. Legislature of United Province may alter regulations respecting District Councils.

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And be it Enacted, That, any thing herein contained to the contrary not withstanding, it shall be lawful for the Legislature of the said United Province, from time to time, by any law or laws to be for that purpose 25 made, to make such provision as to them shall seem meet, respecting the number of the Members of any such District Council, or the mode of summoning such Council, or the issuing and return of Write for the election of the Members thereof, or the execution of such Writs, of the election of Members of any such District Council, or the qualification and disqualification of the Members and Voters for the same, or the Oaths to be taken by such Members and Voters, or the expense of such Elections, or the Fines to be payable for persons declining to act as Members thereof, or the vacating the Seats of such Members, or the times at which such Elections shall take place, or the manner of filling up extraordinary Vacancies in any such Council, or the meeting of any such Council, or the appointment of the Officers of any such Council, or the duties of any such Officers.

f After January 1842, the Revenues of the Two Provinces to form a Consolidated Fund of the United Province.

And be it Enacted, That on and after the said First day of January One thousand eight hundred and Farty-two, all and singular the duties and revenues over which the respective Legislatures of the said Provinces of Upper Canada and Lower Canada have or before the passing of the said Act of the last Session of Parliament had any power of appropriation, shall form one Consolidated Fund or Revenue

V. Finance.

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to be appropriated for the public service of the said United Province. except as hereinafter is specially excepted and provided, and subject to the charges hereinafter mentioned.

Local Revenue not to form part of the Consolidated Fund and to be dis tinguished by Arbitrators

Provided always, and be it Enacted, That the Arbitrators to be appointed as hereinafter mentioned shall before the Twenty-ninth day of September One thousand eight hundred and Forty-two, ascertain and distinguish what parts and proportions of the said duties and revenues are to be taken, as forming the general duties and revenues of the said Provinces, or either of them, and as being applicable to the general public service thereof, and also what part of the said duties and revenues are derived from local rates and assessments, or at the time of such inquiry may be appropriated to any local purpose; and the revenues derived from such local rates or assessments, or appropriated to any local purpose, shall not form part of the Consolidated Fund or Revenue of the United Province, but shall continue to be raised and 15 applied as before, subject to any Act of the Legislature of the United Province, or Ordinance of any District Council hereby authorized to bemade, under the powers and authorities in them respectively vested by this Act.

52. Arbitrators to ascertain amount of Debt chargeable on the General Revenues on the 29th Se tember 1842.

And be it Enacted, That the said Arbitrators shall also inquire into and ascertain the amount of Debt chargeable on the aforesaid general duties and revenues of either Province, on the said Twentyninth day of September One thousand eight hundred and Forty-two. and such amount shall thenceforth be charged on the Consolidated Fund of the United Province.

53. And the amount of the Civil List at passing of this Act, which shall form a permanent charge on the Consolidated Fund.

And be it Enacted, That the said Arbitrators shall also inquire into and ascertain the total annual charge or amount which at the passing of this Act is payable by law in the said Two Provinces, or either of them, for the maintenance and support of the Governors, Judges, Attorneys and Solicitors-general, Provincial Secretaries and Civil Secre- 30 taries thereof respectively, and for the contingencies and expenses of the several departments of the aforesaid public officers, and shall also ascertain the appropriation thereof; and such charge, when ascertained, shall, on and after the First day of January One thousand eight hundred and Forty-two, form a permanent charge on the Consolidated 35 Fund or Revenue of the said United Province, and shall be appropriated permanently as a Civil List for the maintenance and support of the aforesaid public officers and their several departments, and shall be applied accordingly by the Governor of the United Province acting therein under the instructions of one of Her Majesty's Principal Secre- 40 taries of State, and an account of such application shall be laid every year by the said Governor before the Legislative Council and the Assembly of the said United Province by message or otherwise.

Assembly

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54. Consolidated

And be it Enacted, That the said Consolidated Fund or Revenue of the United Province shall also be permanently charged with all and singular the costs, charges and expenses incident ito the collection, management and receipt thereof, such costs, charges and expenses being subject nevertheless to be reviewed and audited, in such manner as shall be directed by any Act of the Legislature of the

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Fund to be charged with expense of collection and management. Local Pr or ma sincer ic rith and

And be it Enacted, That the said Consolidated Fund or Revenue shall be further charged with the payment of the lawful costs, charges and expenses of the said Arbitration, and with the lawful costs, charges and expenses of Returning Officers at Elections of Members of the Assembly, all the aforesaid costs, charges and expenses being subjected to be reviewed and audited, in such manner as shall be directed by any Act of the Legislature of the United 15 Province. า ปางเวลส์เวลเราจะ รับกรีบการเป็นการเป็นว่า และว่าวุทิตตล

Aplt also wift payment of the salaries and expenses of the Arbitration under this Act, and expenses of Returning Officers.

And be it Enacted, That the expenses of the collection, management and receipt of the said duties and revenues shall form the First charge on the said Consolidated Fund; and that the Civil List to be ascertained as aforesaid, and such other costs, charges and 20 expenses as are hereby charged on the said Consolidated Fund, shall form the Second charge thereon; and that the annual interest of the public Debt, to be ascertained as aforesaid, or of the Debt which may bereafter become chargeable on the Consolidated Fund of the United Province, shall form the Third charge thereon.

56. The order of charges on the Fund to be:— 1st. Expense of collection; 2d. The Civil List, and salaries and expenses charged thereon;
3d. The interest of the Debt.

And be it Enacted, That subject to the several payments hereby charged on the said Consolidated Fund or Revenue, the same shall be appropriated by the Legislature of the said United Province for the public service, in such manner as they shall think proper: Provided always, That all Bills for appropriating any part of the said Consolidated Fund or Revenue, or for imposing any new tax or impost, shall originate in the House of Assembly: Provided also, That it shall not be lawful for the said House of A ssembly to originate or pass any Vote, Resolution or Bill for the approprintion of any part of the said Consolidated Fund or Revenue, or of any other tax or impost to any purpose which shall not have been first recommended by a message of the Governor to the said House during the Session in which such Vote, Resolution or Bill shall be passed.

57. Subject to the above charges, the Consulidated Fund to be appropriated by the Provincial Legislature by Bills origineting in the House of Assembly for objects re commended by the Go-

And be it Enacted, That for the purposes which are by this Act referred to the determination of Arbitrators, there shall be nominated and appointed Four Arbitrators, with all convenient speed after the passing of this Act; and Two of the said Arbitrators shall be appointed 341.

58. Four Arbitrators to be appointed, Two by each Province, appoint an Umpire.

Arbitrators.

appointed by an Act of the Legislature of the Province of Upper Canada, and the other Two Arbitrators shall be appointed by an Ordinance to be made by the existing Legislature of the Province of Lower Canada; and such Arbitrators shall within One calendar Month after the appointment of the Four Arbitrators, nominate and appoint by an instrument or instruments under their hands and seals an Umpire.

59.
In default of such appointment, Her Majesty may appoint.

And be it Enacted, That in case such Arbitrators shall not be appointed in manner aforesaid within Six calendar Months after the passing of this Act; or in case such appointment as aforesaid of an Umpire shall not be made within One calendar Month from the appointment of all the said Arbitrators, then and in either of such cases it shall be lawful for Her Majesty, by an instrument under Her sign manual, to appoint any person or persons resident within the Province, in respect of which the Arbitrator or Arbitrators shall not have 15 been appointed, to be an Arbitrator or Arbitrators, to fill up their number, and also to appoint any person, to be such Umpire as aforesaid.

60. Arbitrators may be removed.

And be it Enacted, That each of the said Arbitrators shall be liable to be removed by the party by whom any such Arbitrator shall respectively have been appointed.

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61. Vacancies to be supplied.

And be it Enacted, That in case of the death, resignation, removal or refusal to act of any of the said Arbitrators, or the death, resignation or refusal to act of the said Umpire, another Arbitrator or Umpire shall be appointed in his stead, in the same manner and by the same parties respectively, and subject to the same restrictions as such Arbitrator so dead, resigning, removed or refusing to act as aforesaid, or such Umpire, was originally appointed; and the place of every Arbitrator appointed by the Legislature of either Province, and also the place of an Umpire appointed by the Arbitrators, shall be filled up within One calendar Month of the vacancy taking place, or in default, by Her Majesty, as hereinbefore provided in the case of an original appointment.

62. Powers to Arbitrators to send for papers and records.

And be it Enacted, That the said Arbitrators shall have power to send for and examine such persons, papers and records as they shall judge necessary for their information in the matters referred 35 to them; and that if any person shall refuse or neglect to attend the said Arbitrators, or to produce before them any papers or documents, having been duly served with reasonable notice in writing for that purpose, he shall forfeit and pay to the said Arbitrators the sum of Fifty Pounds, to be recovered by bill, plaint or information in any court having competent jurisdiction within the Province in which such person usually resides, to be applied towards the expenses of the

said Arbitration, and to be accounted for by the said Arbitrators accordingly.

And be it Enacted, That the Witnesses to be produced before the said Arbitrators, if so required, shall and may be sworn before any of the said Arbitrators, who are hereby empowered jointly and severally to administer such Oath; and that if any person shall in any such Oath wilfully forswear himself, he shall be deemed guilty of wilful and corrupt Perjury.

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Oath.

And be it Enacted, That all questions depending before the said 10 Arbitrators shall be decided by a majority of Votes, and in case of the Votes of the said Arbitrators on any such question being equally divided, their said Umpire shall have a casting Vote.

Questions to be decided by a majority of

And be it Enacted, That the adjudication and determination of the said Arbitrators or of their Umpire, in respect of the matters-15 referred to them by this Act, shall be transmitted with all convenient speed by the said Arbitrators or Umpire respectively to one of Her Majesty's Principal Secretaries of State, in order that the same may be submitted to Her Majesty in Council; and if the same shall be respectively allowed by Her Majesty in Council, then from and immediately after such allowance (to be testified by Her Majesty's Sign Manual) every such adjudication and determination shall be binding and conclusive, and shall have the force of law in the said United Province: Provided always, That no such adjudication or determination shall be allowed by Her Majesty in Council until after 25 the same shall have been laid before both Houses of Parliament for at least Thirty Days.

65. Determination of Arbitrators final, unless Parliament Majesty to the contrary.

And be it Enacted, That wherever any act, matter or thing is by this Act directed to be done on any day or at the expiration of any number of days, or for any number of successive days, and the day in which such matter or thing is to be done or to be continued to be done, shall happen to be a Sunday or Good Friday or Christmas-day, the same shall be done on the next succeeding day in lieu thereof.

66. Where Sunday, Good Friday or Christmas. day intervene, all business to be done on the next day.

And be it Enacted, That in all cases where any Oath is required 35 to be taken or administered by this Act, all persons who by the law of the said Provinces of Upper Canada and Lower Canada or either of them or of the United Province, are or may be permitted to make Affirmation in lieu of Oath, may substitute an Affirmation in lieu of the Oath hereby required to be taken.

67. Affirmation stituted for certain cases.

- And be it Enacted, That nothing herein contained shall affect Act not to or vary or authorize the Legislatures of the said Provinces or of the said United Province respectively, to affect or vary any of the 341.

68. affect or emthe capitula-

VII. General Saving of Rights.

tion, nor any Temporal or Spiritual Rights of Ecclesiastics and Ministers of Religion.

terms of the capitulation under which the Province of Quebec was surrendered in respect of Religious Worship or the Temporal Rights and Privileges of the Ministers of Religion, or any of the Spiritual or Temporal Rights or Privileges of the Clergy of the United Church of England and Ireland, or of the Ministers of the Church of Scotland, or of any other religious profession within either of the Provinces of Upper and Lower Canada or the United Province.

69.
Powers of the former Legislature, in respect to the maintenance of Religion, extended to the new Legislature.

And be it Enacted, That all such powers and functions as by the said Act of the thirty-first year of the reign of King George the Third, or by any other Act of Parliament, are vested in 10 the Legislature of Upper Canada and Lower Canada respectively, respecting the Maintenance of Religion or respecting any lands or funds set apart for that purpose may, so far as the same are not contrary to or inconsistent with the provisions of this Act, be exercised by the Legislature of the United Province, but shall nevertheless be 15 exercised, subject to all such restrictions or provisions as are contained in or imposed by the said Act of the thirty-first year of the reign of King George the Third, or by any other such Act of Parliament as aforesaid in that behalf, the said restrictions and provisions being applied to the Acts of the Legislature of the United 20 Province in like manner as they would have been applicable to the Acts of the respective Legislatures of the said Provinces.

70. General Saving of ex isting Laws not repugnant to this Act.

And be it Enacted, That all Laws, Statutes and Ordinances which shall be in force on the First day of January One thousand eight hundred and Forty-two within the said Provinces of Upper 25 Canada and Lower Canada, or either of them, or any part thereof respectively, shall remain and be of the same force, authority and effect in each of the said Provinces respectively, after their union, as if this Act had not been made, except in so far as the same are expressly repealed or varied by this Act, or are contrary to or 30 inconsistent with the provisions thereof, subject nevertheless to any alteration thereof under the powers hereby vested in the Legislature of the said United Province.

71. General Saving of the Rights of Her Majesty and of the Imperial Parliament. And be it Enacted, That nothing in this Act contained shall affect or vary any of the Rights of Her Majesty or of the Imperial 35 Parliament of the United Kingdom any further or otherwise than is hereby expressly enacted and provided.

72. In certain cases Governor of the Two Provinces may be directed to act before the Union, instead of Governor of

And be it Enacted, That wherever any matter or thing is by this Act authorized or required to be done by the Governor of the United Province, with a view to the constitution of the Legislature of 40 the said United Province or otherwise with a view to the union of the said Provinces, it shall be lawful for Her Majesty, if she shall think proper, by instructions under Her sign manual, to authorize the same

matter

matter or thing to be done by the Governor-General of the Two Pro- United Provinces at any time before their union.

vince.

And be it Enacted, That whenever in this Act Her Majesty is named, the Heirs and Successors of Her Majesty shall be also implied and intended; and that whenever the Governor of the Provinces of Upper Canada and Lower Canada, or of the United Province, is named, any Lieutenant-Governor or other person appointed by Her Majesty who shall for the time being preside over the Government of the said Provinces or Province shall be also implied and intended; and 10 that by the word "Legislature" in this Act shall be intended, the constituted authorities capable of making valid and binding laws within their respective jurisdiction, unless in any of the above cases. the construction of the Act shall plainly require the contrary.

73of certain Words in the

And be it Enacted, That in the interpretation of this Act, Further interwords in the singular number shall be construed as extending to the same persons or things in the plural number and the converse; and words in the masculine gender shall be construed to include the female gender, unless the construction of the Act shall plainly require the contrary.

74. pretation of Words in the

And be it further Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

75. Act may be Session.

Upper and Lower Canada.

BILI

For Re-uniting the Provinces of Upper Canada and Lower Canada, and for the Government of the United Province.

(Prepared and brought in by Lord John Russell and Mr. Labouchere.)

Ordered, by The House of Commons, to be Printed, 20 June 1839.

341



A

To enable Justices of the Peace at Quarter Sessions to appoint to the Office of Clerk of the Peace in certain cases.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

DERCAS great inconvenience has arisen, and may arise, Preamble. from delay in the appointment of the Clerk of the Peace of a County; and it is expedient to make provision to remedy the same; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in the event of the death of the Clerk of the Peace of any county, and in case a successor to such office shall not be appointed by the Custos Rotulorum of such county, on or before the day of holding the Quarter or other General Sessions of the Peace in and for the said county next after the death of the said Clerk of the Peace, it shall and may be lawful to and for the Justices of the Peace assembled at such Sessions to appoint an able and sufficient person instructed 15 and learned in the Laws of England, and residing in the said county, to be Clerk of the Peace for the said county, to hold, execute and enjoy the office of Clerk of the Peace for the said county, by himself or his sufficient Deputy, and to take and receive the fees, profits and perquisites thereof, so long as he shall well, 20 justly and honestly demean himself in his said office, or as is hereafter mentioned, which said appointment shall be made under the hands and seals of any Three of the said Justices then present: Provided always, That upon the appointment of any Person to such office of Clerk of the Peace by the Custos Rotulorum of the said county within the space of Three Months from the date of the said appointment by the said Justices, the said last-mentioned

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79.

If Clerk of Peace die, and no Successor appointed before the next Quarter Sessions, Justices may appoint.

Appointment Kotulorum within Three Months after pointment by

appointment

Justices to vacate such last-mentioned Appointment.

appointment shall cease and determine, and thereupon the person so appointed by the Custos Rotulorum shall from thenceforth hold, execute and enjoy the office of Clerk of the Peace for the said county, by himself or his sufficient Deputy, and take and receive the fees, profits and perquisites thereof, so long as he shall well, justly and honestly demean himself in his said office.

Any Two Justices to issue Process, &c. on evidence of Death of Clerk of Peace.

79.

And be it Enacted, That upon evidence on oath given to any Two Justices, in petty sessions assembled, of the death of any Clerk of the Peace, it shall and may be lawful for such Justices to sign any notice, or issue any process, or do such other acts previous to 10 the holding of the next ensuing Quarter Sessions which may be necessary to be done, and which would and ought to be done by the Clerk of the Peace, if the said office had not become vacant.

> Sessions to appoint to the Office of Clerk of the Peace in certain cases. Mr. Pakington and Mr. Godson.) Prepared and brought in by

Ordered, by The House of Commons, to be Printed,

4 March 1839

To enable Justices of the Peace at Quarter



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BILLL

(AS AMENDED BY THE COMMITTEE)

To enable Justices of the Peace at Quarter Sessions to appoint to the Office of Clerk of the Peace in certain cases.

[N. B.—The Clause marked (A.) was added by the Committee.]

percentage great inconvenience has arisen, and may arise, from delay in the appointment of the second secon from delay in the appointment of the Clerk of the Peace of a County; and it is expedient to make provision to remedy the same; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in the event of the death of the Clerk of the Peace of any county or riding, or division of any county, in England or Wales, and in case a successor 10 to such office shall not be appointed by the Custos Rotulorum of such county or riding, or division of any county, or by such other authority as may have the right so to appoint, on or before the day of holding the Quarter or other General Sessions of the Peace in and for the said county or riding, or division of any county, or by such 15 other authority as may have the right so to appoint, next after the death of the said Clerk of the Peace, it shall and may be lawful from and after the passing of this Act to and for the Justices of the Peace assembled at such Sessions to appoint an able and sufficient person instructed and learned in the Laws of England, and residing 20 in the said county or riding, or division of any county, to be Clerk of the Peace for the said county or riding, or division of any county, to hold, execute and enjoy the office of Clerk of the Peace for the said county or riding, or division of any county, by himself or his sufficient 285.

Preamble.

1.
If Clerk of
Peace die, and
no Successor
appointed
before the next
Quarter Sessions, Justices
may appoint.

Appointment by Custos Rotulorum within Three Months after date of Appointment by Justices to vacate such last-mentioned Appointment.

sufficient Deputy, and to take and receive the fees, profits and perquisites thereof, so long as he shall well, justly and honestly demean himself in his said office, or as is hereafter mentioned. which said appointment shall be made under the hands and seals of any Three of the said Justices then present: Provided always, That upon the appointment of any person to such office of Clerk of the Peace by the Custos Rotulorum of the said county or riding, or division of any county, or by such other authority as may have the right so to appoint, within the space of Three Months from the date of the said appointment by the said Justices, the said last-mentioned 10 appointment shall cease and determine, and thereupon the person so appointed by the Custos Rotulorum, or by such other authority. shall from thenceforth hold, execute and enjoy the office of Clerk of the Peace for the said county or riding, or division of any county. by himself or his sufficient Deputy, and take and receive the fees, 15 profits and perquisites thereof, so long as he shall well, justly and honestly demean himself in his said office.

Any Two
Justices to
issue Process,
&c. on evidence of Death
of Clerk of
Peace.

And be it Enacted, That upon evidence on oath given to any Justice who shall be acting or have acted as Chairman of the then existing or the then last preceding Quarter Sessions for such county 20 or riding, or division of any county, of the death of the Clerk of the Peace of such county or riding, or division of any county, it shall and may be lawful for such Justice to sign any notice, or issue any process, or do such other acts previous to the holding of the next ensuing Quarter Sessions which may be necessary to be done, 25 and which would and ought to be done by the Clerk of the Peace, if the said office had not become vacant.

CLAUSE (A.) Act may be altered.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

-5 June 1839-

Ordered, by The House of Commons, to he Printed,

To enable Justices of the Peace at Quarter Sessions to appoint to the Office of Clerk of the Peace in certain cases.

[AS AMENDED BY THE COMMITTEE]

11 July 1839.—З Vіст.





(Ireland.)

For the better Regulation of the Constabulary Force in Ireland.

[Note.—The Words and Clauses printed in *Italics* are proposed to be inserted in the Committee.]

PCRCAS an Act was passed in the Session of Parlia- Preamble: ment holden in the sixth and seventh years of the reign of his late Majesty, intituled, "An Act to consolidate the Laws 6 & 7 w. 4, relating to the Constabulary Force in Ireland;" and another Act c. 13 was passed in the same Session, amending the said first-mentioned c. 36. Act: And whereas it is expedient to establish a Reserve Force, for the purpose of speedily reinforcing the said Constabulary Force in cases of sudden and extraordinary emergency; and it is also expedient to make provision for the better training and regulation of 10 the said Constabulary Force; Be it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT in addition to the Chief and other Constables and 15 Sub-constables whom the Lord Lieutenant or other Chief Governor or Governors of Ireland may be authorized to appoint, under the said recited Acts, in and for the several counties, counties of cities and counties of towns, and in and for the several baronies, halfbaronies and other divisions of baronies in counties at large 20 throughout Ireland, it shall and may be lawful for such Lord Lieutenant or other Chief Governor or Governors to appoint Two Chief Constables (to be styled Sub-inspectors, as hereinafter mentioned), Four Head Constables, and any number, not exceeding in the whole Two hundred Constables and Sub-constables, who shall constitute a

Lord Lieu-

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Reserve

Reserve Force, to be kept in a depôt to be for that purpose provided in or mear the city of Dublin, and employed as occasion may require, in aid of and in conjunction with the said Constabulary Force established in and for the said several counties and places throughout Ireland.

A Paymaster to be appointed for the Reserve Force.

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And be it Enacted, That it shall and may be lawful for the said Lord Lieutenant or other Chief Governor or Governors, in addition to the number of Paymasters, Storekeepers and Clerks authorized to be appointed under the said recited Acts, in like manner to nominate and appoint a person to be Paymaster, Storekeeper and 10 Clerk at the said depôt, who shall give the like security, and receive the like salary and allowances, and be in all respects subject to the like rules and in the like situation as any other Paymaster, Storekeeper and Clerk appointed by virtue of the said Acts.

A Surgeon to be appointed also.

And be it Enacted, That it shall and may be lawful for the said Lord Lieutenant or other Chief Governor or Governors to nominate and appoint a Surgeon, being a member of one of the Royal Colleges of Surgeons, or a medical officer on the half-pay of the Navy or Army, to the said depôt, who shall be charged with the general care and superintendence of the health of the officers and men belonging 20 to the said Reserve Force; and also with the examination, care and superintendence of the health of all such officers and men belonging to the said Constabulary Force as may at any time, under the provision hereinafter contained, be placed in the said depôt, and with all such other medical or surgical duties, in respect of the said Reserve 25 or Constabulary Force, to be performed either in Dublin or elsewhere, as the said Inspector-general shall, subject to the direction and control of the said Lord Lieutenant or other Chief Governor or Governors, from time to time prescribe; and it shall be lawful for the said Lord Lieutenant or other Chief Governor or Governors, as 30 he or they shall think fit, to remove any such Surgeon; and upon any vacancy in such offices by death, removal or otherwise, to appoint some other Surgeon, being a member of one of the said Royal Colleges or a medical officer on the half-pay of the Arany or Navy, to fill such office; and such Surgeon shall receive annual salary, not exceeding Three hundred Pounds, as the said Lord Lieutenant or other Chief Governor or Governors shall fit-to appoint.

4.
Provisions of 6 & 7 W. 4, c. 13, as to Qualification, Pay, &c. extended to Reserve Force.

And be it Enacted, That all and every the provisions of the said recited Acts and this Act, with respect to the qualification, point-40 ment, dismissal, resignation, pay, superannuation allowances, duties, liabilities, disabilities, forfeitures and penalties of or attaching upon the officers and men forming part of the said Constabulary Force

Force respectively, shall apply and extend to the officers and men forming part of the said Reserve Force, or attached to the said depôt, except so far as such provisions may be altered by this Act, or other provisions made in lieu thereof, and that the said Reserve Force shall be subject to the like regulations, direction and control as the said Constabulary Force, except that such Reserve Force shall not be attached to any particular county or place, save temporarily by virtue of such order as is hereinafter mentioned.

Provided always, and be it Enacted, That no office or employment under this Act shall prevent the holder thereof from receiving any half-pay to which, if he did not hold such office or employment, he might be or become entitled under any Act passed or hereafter to be passed, unless it shall be specially mentioned and provided in such Act that persons holding appointments under this Act shall 15 not receive half-pay.

Employments revent the holders from Half-pay.

And be it Enacted, That it shall and may be lawful for the Inspector-general of the said Constabulary Force, subject to the direction and control of the said Lord Lieutenant or other Chief the purpose Governor or Governors, from time to time as may be expedient, to trained 20 direct that all or any the Paymasters, Chief Constables (hereafter to be styled Sub-inspectors), Head or other Constables or Sub-constables, now or at any time hereafter to be appointed in and for any county or counties, barony, half-barony or other division of a barony, county of a city or town, or town and liberties, shall 25 repair to the depôt to be provided as hereinbefore directed in or near to the city of Dublin, and there remain for such time or times as such Inspector-general shall, subject to the like direction and control, order, for the purpose of being instructed, trained and exercised in their respective duties, and when so instructed, trained and exercised. 30 return to their respective counties and places for which they may have been appointed: Provided always, That all expenses to be incurred in respect of such Chief Constables (hereafter to be styled Sub-inspectors), Head or other Constables or Sub-constables so at any time removed to the said depôt shall be defrayed by the 35 counties, counties of cities or towns to which they respectively belong, as if no such removal had taken place.

Constabulary

And be it Enacted, That it shall and may be lawful for the Inspector-general of the said Constabulary Force, subject to the direction and control of the said Lord Lieutenant or other Chief 40 Governor or Governors, from time to time as may be expedient, to order and direct that the whole or any portion of the said Reserve Force, or the whole or any portion of the said Constabulary Force, from time to time placed in the said depôt as hereinbefore mentioned, 395.

tioned, shall go and repair to such place or places in any county of counties, county of a city or of a town, or town and liberties, in Ireland, as shall be mentioned in such order, and shall remain there, for such length of time, or remove to or remain at any other place or places in the same or any other county, city or town, for such time or times, and shall return to the said depot in or near Dublin at such time or times respectively, as shall be mentioned in or directed by such order, or by any other order or orders which may from time to time be made by such Inspector-general, subject to the like direction and control; and that the officers and men constituting such Reserve Force, of belonging to the said Constabulary Force, when so removed shall have the same rights powers and authorities. and be subject to the same rules, regulations and orders, and be in all respects in the same situation in the county or other districts or places to which they shall be so removed as its they had been appointed to and formed part of the Constabulary Force established in and for such county of place on assumment to the many by free Provided averys, That it shall and may be

8.
Expenses of
Reserve Force
to be advanced
out of the
Consolidated
Fund.

And be it Enacted, That it shall be lawful to and for the Commissioners of Her Majesty's Treasury, or any Three or more of them. to order that all such sum or sums of money as they shall think neces-20 sary, shall from time to time be advanced and paid out of the produce of the Consolidated Fund of the United Kingdom of Great Britain and Ireland, arising in Ireland, for the payment of the officers and men composing the said Reserve Force to be established under this Act, and for the salaries of the Paymaster and Surgeon to be attached to the said depot, as hereinbefore provided, and for the puschase of arms, accourrements, horses, bridles, saddles and all other appoint. ments proper for the use of the said Reserve Force, and also for the purchase or rent and repairs of a proper house or barrack to be provided for such depot, and for the forage of horses, and for the furniture and all other accommodations necessary to the said depot, and for all other costs and charges to be incurred in the execution of this Act; and all and every the regulations in the said recited Acts contained in respect of the issue and advance and accounting for of the money issued thereunder, shall apply and extend to the money to be issued under the 35 authority of this Act, as if the same had been issued under the cuthority of the said recited Acts, save as may be by this Act of revise provided.

9.
A Moiety to
be repaid by
the Counties
in which the
Force is employed.

Provided always, and be it Enacted, That One Moiety of all monies so advanced out of the Consolidated Fund for the payment of 40 the officers and men composing the said Reserve Force, and of all other costs and expenses (save as hereinafter mentioned) to be execurred in respect of such officers and men during such time as the shall remain in any county, county of a city or county of a which

which they may be removed, by virtue of any such order of the said Inspector-general as eforesaid, shall be defrayed by such county, county of a city or county of a town, and shall be raised by Grand Jury Presentment off, such county, county of a city or county of a town, together with and in addition to the monies to be raised off such county, county of a city or town, under the said recited Acts, on account of the Constabulary Force established therein; and the Inspector-general of the said Constabulary Force shall regard thereto in making out the certificate, which he is by the said Acts directed to prepare for the purpose of ascertaining the monies chargeable sepen noch county, county of a city or town, or part of a country linder the said gented Asts and shall include such monies in Such certificate nantiall and enery the provisions of the said recited Acts Airecting requiring and enforcing the presentment, levy and payment of the said monies so payable in respect of the said Constabulary Force shall apply and extend to direct, require and enforce the presentment, levy and payment of the monies so certified to be payable in respect of the said Reserve Force: Provided always, That it shall and may be lawful for the said Lord Lieutenant or other Chief Governor or 20 Governors, if he or they shall so think fit, to direct that the monies or any proportion thereof so payable in respect of the said Reserve Force shall be raised off any barony or baronies, half-barony or half-baronies, or other division of a barony, fon the better execution of the law, wherein such Reserve Force or any part thereof may have 25 been employed instead of the county at large, and the said Inspectorgeneral shall, pursuant to such order, specify in his said certificate the barony or baronies, half-barony or half-baronies, or other division of a barony so to be charged with the payment of such monies or any proportion thereof, and the same shall be presented and levied 30 thereout accordingly.

Provided always, and be it Enacted, That for the purpose of calculating the proportion of the monies advanced for the purposes of the said Reserve Force out of the produce of the said Consolidated Fund, under the provisions of this Act, to be raised by Grand Jury Presentment off the several counties, counties of cities and counties of towns, liable to the repayment of the same, the Inspector-general of the said Constabulary Force shall deduct the salary and expenses of the Surgeon and Paymaster to be appointed under this Act, and all such and the like expenses in respect of the said Reserve Force, as by the said recited Acts and this Act are directed to be deducted from the amount of manies advanced, by virtue thereof, out of the produce of the said Consolidated Fund for the purposes of the said Constabulary Force.

And be it Enacted, That as soon as conveniently may be after the passing of this Act, the appointments of Two out of the Eour 395. A 3 County The Moiety of such Expenses to be calculated in the same manner as the Moiety of the Expenses of the Constabulary Force, and subject to the like deduction.

Two out of the present Four County Inspectors to be reduced. County Inspectors appointed under the said Acts shall be vacated, and the number of such Inspectors shall be thenceforth limited to Two: Provided always, That if the said Lord Lieutenant or other Chief Governor or Governors shall on proper occasion think fit to appoint the persons now filling the said offices of County Inspectors, or either of them, to be a Stipendiary Magistrate or Magistrates under the said Acts, they, or such of them as shall be so appointed, shall receive the same salary as they or he may now receive as such County Inspectors, instead of the salary by the said Acts limited for persons appointed such Magistrates, together with such allowances as may 10 be made to such Magistrates.

12.
The designation of . certain Officers of the Constabulary Force changed.

And be it Enacted, That from and after the passing of this Act, the designation of certain officers appointed under the said Acts shall be changed as hereinafter mentioned: Provided nevertheless, That such change of designation shall in no respect alter the duties or emoluments of such officers respectively, nor otherwise affect the provisions of the said Acts or this Act, or any other Act in respect thereof; that is to say, the officers named and described in the said Acts as County Inspectors shall henceforth be styled "Provincial Inspectors;" the officers named and described as Subinspectors shall be styled "County Inspectors," and the officers named and described as Chief Constables shall be styled "Subinspectors."

13. A different gradation of Sularies may be made; but the whole Expense not to be increased.

And be it Enacted, That it shall and may be lawful for the said Lord Lieutenant or other Chief Governor or Governors to direct 25 that annual salaries not exceeding the sums hereinafter mentioned, shall be paid to the number hereinafter mentioned of officers and men in each rank of the said Constabulary Force, instead of the salaries by the said Acts limited for each such rank respectively: Provided always, That the gross amount of the money to be paid 30 for the salaries of the officers and men composing the said Force shall not exceed the amount which the said Lord Lieutenant or other Chief Governor or Governors is or are authorized by the said Acts to grant as and for such salaries in each such rank; that is to say, it shall be lawful for the said Lord Lieutenant or other Chief 35 Governor or Governors to grant to any Five Sub-inspectors (henceforth to be styled County Inspectors) an annual salary not exceeding Three hundred Pounds each; to any Six Chief Constables (henceforth to be styled Sub-inspectors) an annual salary not exceeding One hundred and eighty Pounds each; to any number of 40 Constables an annual salary not exceeding Forty Pounds each; to any number of Sub-constables an annual salary not exceeding Thirtythree Pounds each.

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And be it Enacted, that it shall be lawful for the said Lord Allowance Lieutenant or other Chief Governor or Governors to direct that the Clerks in the office of the said Inspector-general shall receive salaries not exceeding One thousand Pounds in the whole for all such Clerks, instead of Eight hundred Pounds, as in the said Act first

And be it Enacted, That each County Inspector (henceforth to be styled Provincial Inspector) appointed or to be appointed under the said Act first recited, who shall have taken or take the oaths by law required in such manner as by law prescribed to be taken by Justices of the Peace in Ireland, and the oath in the said Act first recited contained, shall thereupon be and become, without further qualification or appointment, and continue so long as he shall hold the said office, but no longer, a Justice of the Peace for every county, county of a city, county of a town, and town and liberties in Ireland.

15. Inspectors to be Justices of the Peace throughout

AND whereas considerable inconvenience has arisen from the 15 powers and authorities of Sub-inspectors, Chief and other Constables and Sub-constables being limited to the counties or places for which they are respectively appointed; BE it therefore Enacted, That in the case of any sudden or extraordinary disturbance of the public 20 peace, or whensoever any such disturbance is immediately apprehended, and for the fresh pursuit of offenders, it shall and may be

16. Constabulary may act be yond tne Limits of their several Counties in certain cases.

lawful for the Sub-inspectors (henceforth to be styled County Inspectors), Chief Constables (henceforth to be styled Sub-inspectors), Head or other Constables or Sub-constables, appointed in and for 25 any county or place adjacent to the county or place in which such disturbance may arise or be apprehended, or into which any such offender may escape, to repair to such adjacent county or place for the suppression or prevention of such disturbance, or the apprehension of such offender, and that they shall therein have the same 30 rights, powers and authorities, and be subject to the same rules. regulations and orders, and be in all respects in the same situation as if appointed in and for such last-mentioned county or place: Provided always, That no such County Inspector, Sub-inspector, Head or other Constable or Sub-constable, shall be absent from his 35 proper county or place more than Five Days without such order as by the said first-recited Act the said Inspector-general is authorized to make for the removal of the Constabulary Force appointed in and for any county or place to any other county or place: And provided further, That in case of any such temporary removal, not exceeding 40 Five Days as aforesaid, the expenses incurred thereby shall be defrayed by the county or place to or for which the Sub-inspector, Head and other Constables and Sub-constables so temporarily absent may belong or have been appointed, in the same manner as if no such removal had taken place.

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recited limited.

17.
Constabulary
may be
lodged in
Joint Stations.

And be it Enacted, That in any case where it shall be found convenient so to do, it shall and may be lawful for the said Inspectorgeneral, subject to the direction and control of the said Lord Lieutenant or other Chief Governor or Governors, to direct that the officers and men belonging to the Constabulary Force established in any Two or more contiguous counties or places, shall be lodged in a common station or barrack situate in any one of such contiguous counties or places, so as such common station shall not be more than Half a Mile distant from the boundary of any such county or place; and the officers and men so lodged in such common station shall have the 10 same rights, powers and authorities, and be subject to the same rules, regulations and orders, in all places, being within a distance of Half a Mile from such common station, as if appointed for the county or place wherein such common station may be situate, and the expense of such common station shall be apportioned, in such 15 manner as the said Lord Lieutenant or other Chief Governor or Governors shall direct, among the said several adjoining countles or places; and the said Inspector-general shall have regard to such apportionment of the said expenses in making out the certificate hereinbefore mentioned, ascertaining the monies chargeable upon 20 each such county or place respectively.

18.
Terms of
Superannuation altered.

AND whereas it is expedient to alter in certain particulars the conditions and proportions of the allowance, remuneration or superannuation which the said Lord Lieutenant or other Chief Governor or Governors is or are by the said recited Acts empowered to grant to 25 persons belonging to the said Constabulary Force; BE it therefore Enacted, That from and after the passing of this Act (but without prejudice to any such allowance, remuneration or superannuation heretofore granted), the conditions and proportions of such allowance, remuneration or superannuation shall be as follows; (that is to say) 30 where any person applying for the same shall be under Sixty Years of age, it shall not be lawful to grant any such allowance, compensation, remuneration or superannuation, unless as hereinafter provided, or upon certificate from such persons as may be appointed by the said Lord Lieutenant or other Chief Governor or Governors for 35 the medical inspection of persons appointed under this Act or the said recited Acts, that such person is incapable, from infirmity of mind or body, to discharge the duties of his office; in which case, if he shall have served with diligence and fidelity for Ten Years, it shall and may be lawful to grant to him by way of superannuation 40 an annual sum not exceeding One-half of the salary of his office; and for every year of service above Ten Years, an additional sum equal to One-twentieth of such salary, provided that the whole of such superannuation shall not exceed the amount of such salary; and if any such person shall be above Sixty Years of age, it shall and may

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econstant.

may be lawful to grant him by way of superannuation the like annual sum, without any such certificate of infirmity of mind or body: Provided always, That if any such person shall be disabled by any wound or injury received in the actual execution of the duty of his office, it shall and may be lawful to grant to him such yearly allowance or remuneration as may, in the opinion of the said Lord Lieutenant or other Chief Governor or Governors, be proportioned to the nature of the injury received, without reference to the length of his service: Provided always, That such allowance or remuneration, shall in no case exceed the whole of such salary, and that in calculating the period for which any such person has served, the time he may have served under any of the Acts recited in the said Act of the last Session of Parliament shall be reckoned: Provided also, That every such yearly superannuation allowance may, at the time 15 of its being granted, or at any time afterwards, be commuted for a gratuity, payable immediately, at such rate as the said Lord Lieutenant or other Chief Governor or Governors may approve of.

> 19. Superannuation forfeited by misconduct

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places; and the sold Inspector ground shall have regent to such And be it Enacted. That if any person to whom any allowance, compensation, remuneration or superannuation shall have been or 20 be granted under the provisions of the said recited Acts or this Act, shall refuse when called upon by any Magistrate or other officer of the peace to assist in the suppression of any riot or breach of the peace, or in the apprehension of any offender, or shall be convicted of any felony or misdemeanor or other disgraceful conduct, or shall have committed any fraud with respect to the claiming, obtaining or receiving such allowance, compensation, remuneration or superannuation, or shall conceal his enjoyment of the same for the purpose of evading the provisions of this Act, or shall assume a false name, or make a false statement, as to his place of residence, for the same or any other fraudulent purpose; shall, in addition to any other punishment to which he may be by law liable, forfeit, at the pleasure of the said Lord Lieutenant or other Chief Governor or Governors of Ireland, the whole or any part of such allowance, compensation, remuneration or superamuation.

Provided always, and be it Enacted, That any superannuation, serviring allowance or gratuity which may at any time be granted to any officer or man belonging to the said Reserve Force shall be charged upon and paid out of the Police Superannuation Fund, established under the hereinbefore first-recited Act.

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AND whereas under the said recited Acts the Paymasters appointed thereunder are required to make up their accounts on the first day of every month, and to transmit the same to the Receiver of the said Constabulary Force, and copies thereof are directed to be transmitted to the Secretaries of the respective Grand Juries, and 395.

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20.
Superannuation of Reserve Force to be charged on the Police Superannuation Fund.

21.
Paymasters to make up Half-yearly instead of Monthly Accounts.

laid before the Magistrates at the Special Road Sessions next preceding the Assizes, and divers other provisions are made respecting the said accounts: Ann whereas the said monthly accounts have been found inconvenient; BE it therefore Enacted, That instead of the said accounts being made up on the first day of every month, the same shall be made up to such day in each half-year as may be for that purpose appointed by the said Inspector-general, and that all and every the provisions made by the said Acts in respect of the said monthly accounts shall apply and extend to the half-yearly accounts to be made up in lieu thereof, as herein directed.

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Counties to be liable to repay a Moiety of the Expense of Clothing.

And be it Enacted, and it is hereby declared to be the intent and meaning of the said recited Acts, That for the purpose of calculating the proportion of the monies advanced out of the Consolidated Fund, under the provisi one of the said recited Acts, to be raised by Grand Jury Presentment off the several counties, counties of cities and coun-15 ties of towns liable to the payment of the same, as in the said Acts mentioned, no such sums as shall be or have been advanced for the clothing of the said Constabulary Force shall be deducted from such advances, any thing in the said recited Acts to the contrary hereof notwithstanding: Provided always, That in any case where any expenses 20 heretofore incurred for the clothing of the said Constabulary Force shall not have been presented, levied and repaid by and off any county, county of a city or town, it shall be lawful for the said Inspectorgeneral to include the proportion of such expense chargeable on such county, county of a city or town, under the provisions of the said 25 recited Acts and this Act, in the next certificate to be by him made out of the monies chargeable under the said Acts on such county, county of a city or town, and the same shall be presented, together with and in addition to the other monies included in such certificate, and the presentment, levy and repayment thereof enforced by all the like ways 30 and means.

23.
Expenses of removing Officers from one County, &c. to another, to be deducted from the Erpenses chargeable on Counties.

Provided always, and be it Enacted, That in calculating the proportion of the monies advanced out of the said Consolidated Fund to be repaid by Grand Jury Presentment as aforesaid, all such sums as shall have been advanced for the expenses attendant upon the removal from 35 any county, county of a city or town, barony, half-barony or ther division of a barony, for the purpose of being reappointed to any other county, county of a city or town, barony, half-barony or ther division of a barony, of any Sub-inspector (henceforth to be styled County Inspector), or Chief Constable (henceforth to be styled Sub-40 inspector), shall be deducted from such advances, together we the other expenses by the said Acts authorized to be so deducted.

24. Officers and Men of Constabulary and

And be it Enacted, That no person holding any appointment or employment under the said Acts or this Act shall be eligible or liable

liable to be elected a Guardian of the Poor, or to fill any other office, under an Act passed in the last Session of Parliament for the more effectual relief of the destitute poor in Ireland; and that the provision in the hereinbefore first-recited Act of the sixth and seventh years of his late Majesty's reign, exempting certain officers and men belonging to the said Constabulary Force from hability to serve the offices of Churchwarden, Parish Overseer and Constable, or as Jurors or in the Militia, shall be deemed and taken to extend to all persons holding any appointment or employment whatsoever 10 under the said recited Act or this Act.

exempted from serving of the Poor, Jurors, &c.

And be it Enacted, That in case of the death, illness, removal, resignation or absence of the Inspector-general, it shall be lawful for such one of the Deputies to the said Inspector-general as shall be for that purpose authorized by the said Lord Lieutenant or other 15 Chief Governor or Governors, by warrant under his or their hand and seal, to do all such acts as it would have been competent for the Inspector-general to do, and all acts done by such Deputy Inspector-general shall be alike valid and effectual as if done by the Inspector-general, or as if such office were not vacant in case it 20 shall happen so to be.

25. Deputy may act for Inspector-gene-

And be it Enacted, That all witnesses duly summoned by the Witnesses Inspector-general or Deputy Inspector-general, or person or persons nominated at any time by the said Lord Lieutenant or other Chief Governor or Governors, to inquire, pursuant to the provisions of the 25 said Acts, into any charges or complaint preferred against any person appointed thereunder of any neglect or violation of duty in his office, and to report thereon, shall, during their necessary attendance at such inquiry, and in going to and returning from the same, be privileged from arrest, and shall, if unduly arrested, be discharged 30 by the Court out of which the writ or process issued, or if such Court be not then sitting, then by any Judge of the Court of Queen's Bench in Dublin, upon its being made to appear to such Court or Judge, by an affidavit in a summary way, that such witness was arrested in going to or returning from or attending upon such inquiry, and that all persons so duly summoned as aforesaid, who shall not 35 attend at such inquiry, or attending shall refuse to be sworn, or being sworn shall refuse to give evidence, or to answer all such questions as may be legally demanded of them, shall forfeit and incur such penalty, not exceeding Five Pounds, as the said Inspectorgeneral or Deputy Inspector-general, or person or persons holding such inquiry, shall direct, and in default of payment thereof, such · person so offending shall and may be imprisoned for such period. not exceeding One Month, as such Inspector-general or Deputy Inspector, or person or persons holding such inquiry, may direct and 395. adjudge;

adjudge; and the payment of such fine shall be enforced, or the person liable thereto imprisoned, in the manner prescribed by and according to the provisions of an Act passed in the last Session of Parliament, intituled, "An Act for the more effectual levying of Fines, Penalties, Issues, Deodands and Amerciaments, and of forfeited Recognizances estreated in Ireland, and for the Application and Distribution thereof."

r Deputy

AND whereas authority was given to the Lord Lieutenant or other Chief Governor or Governors of Ireland, by the said first-recited Act, to continue to Magistrates appointed under the said Act a salary and 10 allowances equal to the salary and allowances granted to them while serving under the provisions of former Acts thereinbefore recited: And whereas it is expedient to extend a like benefit to the present Senior Deputy Inspector-general, Lieutenant-colonel Miller, who, upon the consolidation of the Force consequent upon the passing of 15 the said Act, was deprived of the office of one of the Inspectorsgeneral which he held under the former Act; BE it therefore Enacted, That it shall be lawful for the Lord Lieutenant or other Chief Governor or Governors to grant unto the said Lieutenantcolonel William Miller an annual salary of One thousand two hun- 20 dred Pounds, in lieu of the salary fixed by the said recited Act, whilst he shall hold the said office of Deputy Inspector-general; and that he shall henceforward receive the said salary upon the same conditions in all respects as if this Clause had been included in the said recited Act.

28. Act may be altered this

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in this present Session of Parliament.

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ALC Continues to the continues of the co

Constabulary Force.

(Ireland.)

For the better Regulation of the Constabulary Force in Ireland.

(Prepared and brought in by Lord Viscount Morpeth and Mr. Solicitor General for Ireland.)

Ordered, by The House of Communs, to be Frinted, 11 July 1839.

395.

ANALYSIS

OF A

BILL for the Enfranchisement of Lands of Copyhold and CUSTOMARY TENURE, and other LANDS subject to MANORIAL RIGHTS.

Preamble, and Appointment of Commissioners.

1. After reciting that it is expedient to provide for the gradual and entire enfranchisement of lands of copyhold and customary tenure, and other lands subject to manorial rights, on such a basis as shall be equitable towards the interest of all parties affected; it is enacted, That "the Tithe Commissioners for England and Wales" for the time being, shall, unless otherwise directed by one of Her Majesty's Principal Secretaries of State, be the Commissioners for carrying the Act into execution; and that should the Act not be carried into execution before Tithe Commissioners cease to act, or should it appear expedient, other Commissioners may be appointed, &c., with power to supply vacancies.

2. Style of Commissioners, Seal, &c.

Enacts that the Commissioners shall be styled "The Copyhold Enfranchisement Commissioners," and shall have their office and seal, and that instruments sealed are to be received in evidence, &c.

3. Report to Secretary of State, &c.

Commissioners to report to Secretary of State, and annual Report to be laid before Parliament.

4. Assistant-commissioners, &c.

Power to appoint and remove Assistant-commissioners, Secretary, &c.

- 5. No Commissioners to sit in House of Commons.
- 6. Operation of Act limited to Ten years.
- 7. Salaries and Allowances of Commissioners.
- 8. To be paid out of Consolidated Fund.
- 9. Declaration.

Commissioners and Assistant-commissioners to make declaration before acting.

- 10. Commissioners may delegate Powers.
- 11. Manors and Lands vested in Crown.

Provision is made for cases in which manors or lands are vested in the Crown generally or in right of Duchies of Lancaster or Cornwall.

- 12. Disabilities of lords or tenants provided for.
- 13. Power to appoint Attorney.

An attorney may be appointed, and at the first meeting the power or a copy shall be delivered to the chairman.

14. Power to call a Meeting, &c.

Any one or more of the lords or tenants whose interest shall not be less than one-fourth of annual value of manor or lands, may call a meeting of the lords and tenants (by notice to be affixed Twenty-one Days before the meeting on principal outer door of church of parish within the limits of which the manor or greater part in value extends, or on door or conspicuous part of some house or building where courts usually held, and twice advertized in some newspaper, or once in each of

81.

two newspapers generally circulated in the county,) for the purpose of making an agreement for the general enfranchisement of lands holden of such manor; and every lord or tenant present at such meeting shall bear his own expense of attendance; and the lords and tenants present at such meeting whose interest in the manor and lands shall not be less than a majority of the tenants in number, and whose interest in the manor and lands shall not be less than two-thirds of the annual value thereof, may proceed to make and execute an agreement for enfranchisement of the lands holden of the manor, and discharge thereof from all manorial rights, to which the lands are subject; and if so expressly agreed between such lords and tenants, the enfranchisement may be made to extend to rights in mines and minerals, but otherwise shall not extend to affect such rights.

15. Terms on which Agreement may be made.

Such agreement may be entered into for enfranchisement from the lord's rights on payment to him of a sum certain for such entire enfranchisement, or a sum certain for enfranchisement from fines, a sum certain for all heriots, a sum certain for a certain number of years' purchase for quit and other rents, a sum certain for rights in timber and other manorial rights as aforesaid; or such sums for enfranchisement may be subject to diminution or increase to such an amount per centum as shall be agreed on; and such agreement may fix the amount of the steward's fees that may be awarded by the Commissioners; every agreement for any species of manorial right shall require concurrence of two-thirds in a majority in number and two-thirds in interest of persons affected.

- 16. A provisional Agreement may be made.
- 17. Proportional interest how to be computed.
- 18. Power to adjourn meetings, but notice of adjournment to be once advertized.
- 19. Agreement to bear date the day on which first signature attached to same, or minutes thereof, and to be in such form as the Commissioners shall from time to
- 20. Commissioners to frame and circulate forms.
- 21. Commissioners or Assistant-commissioners may attend meetings, and advise terms of
- 22. Suits and differences may be referred to arbritration.
- 23. Commissioners to require consents of Ecclesiastical Corporations, or other bodies, whose interests appear to be affected, to be obtained by agreement.
- 24. The like as to mortgagees or other parties generally, whose interests the Commissioners may deem affected.
- 25. Agreement to be confirmed by Commissioners.
- 26. Appointment of valuers.

At meeting or adjourned meeting, valuers to be appointed to ascertain annual value of lands to be enfranchised, as follows, (i. e.) if enfranchisement is in consideration of aggregate fixed sum payable to the lord, the tenants to appoint; and if majority in number and value do not agree, then two or other even number to be appointed, half by number and half by value; and when enfranchisement not in consideration of fixed sum, half the valuers to be appointed by the lord, and half

- 27. Valuers to apply to the Commissioner for instructions, and are then to proceed to ascertain value of lands, and make out and send to office of Commissioners such valuation, with power to appoint umpires.
- 28. Power to enter lands, &c. Valuers and umpires to make declaration before acting.
- 29. Steward to furnish information, for the purpose of enabling valuers to make valuation and otherwise to facilitate enfranchisements under the Act; the steward shall, on request by valuers or chairman of meeting, make a correct statement in writing of-

Description of their lands:

The amount of assessment to poor rate:

Amount received for heriots in respect of each tenant, for three times previous: And any other information which the Commissioners shall direct:

Shall produce same for inspection at the meetings, and allow extracts to be taken, and upon request by valuers, deliver to them a copy of such schedule, or the parts

SECT.

373

which they may require for such statements and extracts; the steward to receive such sum as shall be agreed on, and Four-pence for Seventy-two words, for copies or extracts.

The steward shall also within Three calendar Months, or such time as the Commissioners shall fix, make out and send to them a Schedule of—

The names of the several tenants of the manor:

To which class belonging:

Their residences:

Their descriptions:

Their ages, as nearly as he can ascertain the same:

When more than one tenant, whether admitted as joint tenants, or how otherwise:

The description of the lands:

Whether copyhold, customaryhold, subject to fines for customary freehold:

In what parish situated:

To what amount assessed, or assumed proportion if rated, with other lands [as in previous Schedule]:

Amount of quit or free rents:

Whether held at fines arbitrary on death and alienation; at fines certain, or how otherwise:

Whether subject to heriots, and how:

Amount received for each of three last heriots for each tenement:

Whether subject to rights in timber, and what: a number to each tenement: The number of changes of tenants on each tenement, subject to fines payable on death or alienation during the last Seventy, or such other number of years as fixed on]:

The number of changes of tenants during the like period, on each tenement,

subject to fines on death only:

And add such other information as Commissioners may direct; and insert at the foot of such Schedule, the amount of his claim for compensation, and the grounds upon which the same is computed.

Power to make inquiries by post as to ages of tenants, and enactment that tenant refusing to give information shall not afterwards be allowed to object to age stated, and penalty on giving untrue statement.

Steward to give from time to time such other information to Commissioners as they may require, with penalty on default.

- 30. Valuers to take particular circumstances of each case into consideration.
- 31. Schedules of Valuation to be deposited for inspection, and Meeting to determine objections.

Copies of Schedules by valuers to be lodged with steward for inspection by all interested parties, without charge, and notice to be given as Commissioners may direct, with penalty on disallowing inspection.

Notice to fix time for hearing objections, and at such meetings objections to be heard and determined by Assistant-commissioner, with power to adjount when requisite, and direct any further valuation, &c. to be made.

No person to be allowed to object without giving five days' notice of intention to object; such notice to be left with steward, and inspected by other parties with Schedules; forms of notices to be supplied to steward, and by him delivered to party applying.

After hearing and determining objections, Assistant-commissioner to amend Schedules, and power to him or Commissioners to amend such valuations or Schedule as to alterations by deaths, change in ages, &c., on satisfactory proof by affidavit or otherwise that such alterations are requisite.

32. Expenses of proceedings under the Act, (except where from special circumstances the Commissioners shall direct otherwise) shall be payable as follows; where the valuers shall be appointed by the tenants, the costs of valuation and Schedules shall be paid by the tenants rateably according to their interest; but where the valuers shall be appointed by the lord and tenants, then if only Two appointed, the lord shall pay one-half and the tenants one-half; and where more than Two shall be appointed, the lord shall pay one-third and the tenants two-thirds; and in case of dispute as to costs the Commissioners shall have power to decide the same.

81. 33. Schedule

Schedule to be made by the Commissioners. 33. settled and amended, the Commissioners shall either agree to apportionment made by valuers, or cause a schedule to be made of the apportionment to be made of the sums to be paid by each tenant, taking all the circumstances of each case into

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34. Schedule of Apportionment to be inspected; Errors pointed out and rectified, and then confirmed.

The Commissioners shall forthwith after making such schedule, cause a copy to be deposited with the steward for inspection by all parties interested: notice is to be given of such deposit, and steward to allow inspection under a penalty for default; parties interested may give notice of any errors to the steward, who must send them with the copy apportionment to the Commissioners, at the expiration of the time appointed for inspection; the Commissioners shall then inquire into and rectify such errors, and cause the apportionment to be engrossed, and annex any Plans or Schedules thereto required for elucidation thereof, and confirm the same under their hands and seals.

35. Copies of confirmed Apportionment to be deposited with Steward and Clerk of the Peace.

Two copies of every confirmed apportionment, with documents annexed, to be made and sealed by the Commissioners; one copy to be deposited with the Steward, and kept with the Court Rolls, and the other with the Clerk of the Peace for the county or jurisdiction within which the manor or greater part in value, computed as aforesaid, shall be situated, to be kept by him and his successors; and all persons interested therein may have access to the said copies respectively, and have copies or extracts thereof on giving reasonable notice and paying Two shillings and sixpence for each inspection, and Three-pence for every Seventy-two words in such copies or extracts: the statements in such apportionment, &c., to be received as evidence, and deposit to be notified by advertisement as Commissioners may direct.

36. Notice to Parties.

The Commissioners before confirming any agreement, valuation, assessment, schedule or apportionment, may require notice thereof to be given in such manner as they shall direct, to the person next in remainder, reversion or expectancy of an estate of inheritance in any manor or lands, or any other person to whom they may think notice ought to be given, and by themselves or Assistant-commissioners hear and determine any objection made to such confirmation by any person so interested, and may direct any amendment accordingly.

- 37. Commissioners may correct Errors with consent.
- 38. Compulsory Enfranchisement; Commissioners to ascertain value.

Power to Commissioners after 1st day of August 1842, by themselves or Assistant-commissioners, to ascertain value of enfranchisement where no agreement, with power to defer doing so, where proceedings commenced.

39. Commissioners to require information from Steward.

The Commissioners may require the steward, or lord, where no steward, to furnish them with a Schedule as or to the effect before required to be furnished in the case of voluntary enfranchisements for the purpose of apportionment, and which shall contain a statement of the steward's claim for compensation, and such further information relative to the manor as Commissioners shall require, with like powers in obtaining information, &c.; and a duplicate of such Schedule shall be kept for inspection as Commissioners shall direct; and the Commissioners shall furnish steward with forms of notice of objection, to be delivered to party applying

40. Notice of Inspection; Meeting to hear objections and appoint Valuers, &c.

Forthwith after receipt of Schedule and information, the Commissioners are to cause notice of duplicate remaining for inspection, and shall appoint a meeting for hearing objections to the Schedule by any persons interested, giving Five days' notice to steward, and to appoint valuers; the Commissioners or Assistant-commissioners shall at such meeting hear and determine objections or adjourn meeting, and then hear objections and amend Schedule accordingly, and according to deaths, &c., happening since making out the Schedule and determine a nount of compensation to steward; and valuers are to be appointed as at voluntary meetings,

375

SECT.

meetings, when one-half in number to be appointed by the lord and the other half by the tenants; and which valuers or their umpires are to be appointed as in voluntary enfranchisements, shall make the like declaration and act in like manner and with the like powers, &c., as if appointed under voluntary enfranchisements.

41. Power to Commissioners to appoint Valuers and Umpires.

If within Six months after first meeting, to appoint valuers in compulsory enfranchisements, or if like period from confirmation of voluntary agreement, no valuers shall have been appointed, or valuation not made and sent to the Commissioners, the Commissioners may appoint valuers.

42. Inspection of Schedules, Objections, &c.

A copy of the Schedules of valuers to be deposited with steward for inspection, as in cases of voluntary enfranchisement; notice to be given of such deposit and proceedings for hearing objections and making amendments, as in case of voluntary enfranchisements, and to make amendments in steward's schedule, becoming requisite from deaths, &c.

- 43. Expenses. Like provisions as in voluntary enfranchisements (see sect. 32.)
- 44. Apportionment. The Commissioners to make apportionment, cause Schedule to be deposited for inspection, and proceed to confirmation and deposit of copies with Clerk of Peace, as in voluntary enfranchisements.
- 45. Notice to interested Parties. Commissioners may have notice given to, and hear objections by parties entitled in reversion, and other interested parties, as in sect. 36.
- 46. Apportionment not to be questioned after confirmation, except with consent.

47. Commissioners may hear and determine disputes and settle Boundaries.

If any action or suit shall be depending touching the right to or amount of any fines, other manorial payments or incidents, or any question shall arise thereon, or as to the boundary of any lands holden of the manor, or precise situation of such lands as shall be intermixed with other lands, or the exact quantity of the lands so holden, or any difference shall arise whereby the proceedings to effect any enfranchisement, whether voluntary or compulsory as aforesaid, shall be hindered, the Commissioners or Assistant-commissioner may appoint a time and place in or near the manor for hearing and determining the same, and inquire into, hear and determine such right or amount, or such question; and their or his decision shall be binding and conclusive on all persons to whom Twenty days' notice of the time, place and intent of such meeting shall have been given or left at his abode, or with the occupying tenant, with a penalty on the occupying tenant for omitting to send the notice to his landlord, or party for whom same left, and shall be liable to make good to such party all damage which he may sustain by such defaults.

48. Subject to uppeal by issue at law, or on case stated.

Appeal, &c. given where matter in dispute shall exceed the sum of Twenty Pounds value.

- 49. Proceedings not to abate by death of Parties.
- 50. In case of death, Actions to be brought, &c.
- 51. Statute of Limitations not to be affected. Nothing in Act contained to revive any right to fines or other manorial claims now or hereafter barred by any law in force for limitation of actions or suits.
- 52. Power to summon Witnesses, &c. Power to summon witnesses, call for returns, production of deeds, &c.
- 53. Expenses of Witnesses, &c. Commissioners or Assistant-commissioners may order expenses of witnesses and of production of books, deeds, court-rolls, &c., and all other expenses (except salaries or allowance to Commissioners or Assistant-commissioners) incurred in settlement of any suit or difference, or in hearing or determining any objections, &c., to be paid by such interested parties, and to such parties as they or he may think fit and reasonable.
- 54. General Expenses and Recovery. Expenses attending enfranchisements (except otherwise provided for) shall be paid as Commissioners may in apportionment or otherwise under their hands and seals direct; and if any difference shall arise as b

to amount to be paid by or to any person, the Commissioners or Assistant-commissioner may, under their or his hand, certify amount; and in default of payment, the same may, on production of certificate, or of a deposited copy of apportionment, be recovered before Two Justices of Peace, by distress and sale, with costs of application and proceedings.

- distress granted, the person entitled (if amount including costs of distress shall equal Forty Shillings) his executors, &c. may recover same, with costs of suit, in any court of law at Westminster, against party named in certificate or apportionshall be satisfactory evidence of the amount of such expenses, and of the same being due from and to the parties therein named; and the certificate of Two Justices under their hands, which they are required to give in such cases, shall be satisfactory evidence of non-recovery of such expenses and costs under the distress.
- 66. Expenses of Trustees. Every tenant of the manor being a trustee (save as against an unadmitted mortgagee) shall be entitled to recover in like manner by distress or action respectively all expenses, costs and charges which he may have to pay under any such certificate, apportionment, distress or action, from the person beneficially like distress on the lands, and the occupiers thereof shall be entitled to deduct any such payments from any rent then or subsequently due; and should any dispute Commissioners or Assistant-commissioners, as in the case of causes of difference proceedings or action.
- 57. Copyholders, &c. having limited interests, may charge costs in certain cases.

 Tenants having limited interests may, with consent of Commissioners, by a simple entry on court-rolls, charge the lands with the costs and interest, the principal being however reduced One-twentieth each year; the steward to charge only Thirteen shillings and sixpence for such entry and copy, which is not to be liable to stamp.
- 58. Expenses payable by Lords of Manors. Expenses payable by lords having partial interests, or being trustees, shall with the expenses they may reasonably incur in employing agents to protect their interests or otherwise (the amount of such expenses being subject to approval of Commissioners or Assistant-commissioner), shall be paid out of the first monies to be received out of the enfranchisements to be effected under the Act.
- From and immediately after date of final confirmation of apportionment, the several and respective lands holden of the manor shall stand chargeable with the respective sums mentioned in the apportionment as payable to the lord and steward persons for the time being seised of the manor, shall be deemed to be seised of the said lands as mortgagee in fee thereof for the benefit of the lord as to the sums payable to him, and of the steward as to the sums payable to him; and that (subject to the it shall be lawful for the person so seised, or the lord or steward respectively in his of freehold lands is entitled to, for the enforcing payment of such principal sums costs.
- 60. To be first Charges. Such sums shall be first charges, and have priority over all mort-gages, charges and incumbrances, &c.
- 61. Power to mortgage. Any tenant whose lands shall be enfranchised, may charge the same (or any of them, if he holds all under same right and for same estate), with payment of such sums and costs of such charge and lawful interest, to any person advancing same and his executors, administrators and assigns, and for years to such person, his executors, &c., or to such other person as he shall appoint; on payment of the amount thereby secured with interest at a time to be therein of first mortgagee.

62. Power



377

- 62. Power to Tenant to defer Payment of consideration for Enfranchisement. For purpose of freeing tenants of manors from the inconvenience to which, in certain cases, they might be subject, by an immediate liability to payment of the sums to be awarded to the lord of the manor under the Act, it shall be lawful for any tenant, at any reasonable time before final apportionment as aforesaid, (to be fixed by the Commissioners, or, in default of their fixing any limit, at any other time or until within Ten days next previous to such apportionment), to declare, by notice under his hand, to be delivered to the lord or steward, as in case of other notices, his desire that such compensation shall remain a charge on the lands affected thereby for any number of years not exceeding Fourteen, or as to tenants for lives for the whole period of his life, and one year longer; and which notices the said steward shall forthwith, or with the Schedule of apportionment, send to the Commissioners; and thereupon the said Commissioners shall insert in a column of the apportionment to be appropriated to that purpose, the number of years or period for which such charge is to be continued, and thereupon (subject as after mentioned) no proceedings shall be instituted during such term or period to enforce payment of the principal money so apportioned: Provided nevertheless, That lawful interest shall be payable and paid half-yearly on the days to be mentioned in such apportionment, or, if not mentioned therein, at the expiration of each half year, computed from the date thereof, and that such proceedings may be instituted, and nothing in the Act contained shall extend to protect any tenant or other person from such proceedings, in case One-and-a-half year's interest shall remain due on the said principal sum apportioned, or on any part thereof, to the extent of one-half: Provided also, That during the term or period so fixed, the lord shall not be compellable to receive payment of the principal money without receiving Twelve calendar months' notice of intention to pay off the same, and that in case the interest on such principal sum, or any part thereof, shall at any time or times be in arrear Thirty days, it shall be lawful for the lord or party for the time being entitled to receive such interest-money, to levy the same by distress and sale of the goods on the lands and tenements enfranchised and affected by such enfranchisement money, or any of them, in like manner as for rent in arrear and subject to recovery by distress.
- 63. To whom Monies for enfranchisement from Lord's Rights to be paid.

 Monies to be received for enfranchisement from lord's rights to be paid to lord, his heirs or assigns, when absolute owner, for limited estate or interest, or under legal disability, to be paid as follows: If it amounts to Two hundred Pounds, to be paid into the Bank of England, under the 1 Geo. 4, c. 35.
- 64. When less than Two hundred Pounds, and more than Twenty Pounds, to be paid into the Bank of England, or to trustees, at the option of the parties.
- 65. When Twenty Pounds, to be paid to the person entitled to the rents and profits.
- 66. Payment to Steward. Sums payable to the steward for compensation to be paid to him, his executors or administrators.
- 67. Receipts to be Discharges. Receipts of persons to whom money directed to be paid to fully discharge person making payment; and, for better evidencing payment, the steward shall, as to his compensation, forthwith after payment, and as to payment for enfranchisement from lord's rights, forthwith after production of receipt for same, signed by the party entitled to sign the same, enter on the copy apportionment to be deposited with him as aforesaid, a memorandum of such payments; and such memorandum shall be sufficient evidence of such payments, and discharge lands and person paying from the sums therein mentioned to be paid.
- 68. Lands to become Freehold, &c. From and after final confirmation of apportionment the lands therein comprised shall, subject to the payment of the enfranchisement, consideration in favour of lords and stewards as aforesaid, become and be of freehold tenure, and all mortgages affecting the same shall be deemed and become mortgages in fee of the same lands, if such enfranchisement consideration shall be paid off; and if not so paid off, mortgages in fee of the equity of redemption thereof, subject to such mortgage estates respectively as aforesaid, for securing such consideration; provided that nothing in the Act contained shall operate to deprive any tenant of any commonable right to which he may be entitled in respect of such lands; but such right shall continue attached to such lands, notwithstanding the same shall become freehold.

69. Reservation

81.

- 69. Reservation of Lord's other rights. The Act not to affect rights of lords of manors to escheats, fairs, markets, appointments, franchises, royalties, rights of chase and in game, fisheries, &c., or any rights in mines or minerals, save that the person whose lands shall be enfranchised, his heirs, &c. shall have right to dig for, raise and get stones, lime, slate, clay, brick-earth, turf or peat.
- 70. Substituted Titles. The lands enfranchised shall be deemed to be held under the same title up to the time of enfranchisement as that under which the same were held at the time of the enfranchisement, and shall not be subject to any estates, rights, titles, interests, incumbrances, claims or demands affecting the manor of which the same were holden.
- 71. Power to Lords and Tenants to effect Enfranchisements independent of the Act.

 For the purpose of affording to the lords and tenants respectively the opportunity of obtaining an enfranchisement of their respective lands, free from any delay or expense under this Act, it shall be lawful for the lord and tenants of any manor (whatsoever may be their interest therein), with the consent of the Commissioners under this Act, at any time or times before such agreement for enfranchisement as aforesaid shall be entered into, to enfranchise any of the lands holden of the said manor, in consideration of a sum of money to be agreed on between them and the tenants affected, and certain facilities are given to such enfranchisements.
- 72. How such Enfranchisement may be effected.

 Every such enfranchisement shall be made by such conveyance, deed or assurance, as would be adopted for effecting such enfranchisement if the lords were seised of the manor for an absolute estate of inheritance in fee-simple in possession.
- 73. Penalties. Any person refusing or neglecting to make any return, or allow inspection of poors' rates, or of other documents, writings or papers, of which inspection is required under this Act, or who shall make any false return or statement not required on oath, or who shall refuse or neglect to attend and give evidence and answer such questions to which answers shall be required by the Commissioners or Assistant-commissioner for the purposes of this Act, shall (except in cases otherwise provided for) forfeit and pay such sum for each such refusal, neglect or false return or statement, not exceeding the sum of Five Pounds, as such Commissioners or Assistant-commissioner shall, by writing under their or his hands or hand, order and direct, and to be recovered with costs by distress as aforesaid; money received for such penalties to be paid to such persons as Commissioners or Assistant-commissioner shall direct, and applied towards costs attending enfranchisement, in relation to which such refusal, &c. shall arise.
- 74. Advertisements, Contracts and Awards not to be liable to Stamp Duties.

 No advertisement inserted by Commissioners or Assistant-commissioner in any newspaper, and no agreement, award or power of attorney made or confirmed or used under this Act, chargeable with any stamp duty.
- 75. Correspondence of Commissioners relating to this Act to be free of Postage.
- 76. False Evidence to be deemed Perjury. Withholding Evidence a Misdemeanor.
- 77. Limitation of Actions against Commissioners, Assistant-commissioners, Justices of the Peace, &c.
- 78. Proceedings under this Act not to be quashed for want of form, nor to be removed by Certiorari.
- 79. Limits of Act.
- 80. Act may be altered this Session.
- 81. Interpretation Clause. In construction of Act, unless something in subject or context, repugnant to such construction, the words after mentioned, or similar words, to extend to and be construed as herein provided; (that is to say)

The word "MANOR" shall extend to manor, or reputed manor, of whatsoever

tenure the same may be.

The words "LORD" and "STEWARD" shall include the person or persons for the time being filling those respective characters or acting in those respective capacities, whether those persons shall be lawfully or rightfully entitled to fill such characters, or act in such capacities or not.

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The words "Tenant," or "Tenants," shall extend to and comprise persons holding by copy of court-roll, or as customary tenants, or holding lands subject to any manorial rights, and whether holding to them and their heirs or for life, or in any other manner whatsoever.

The words "Land," or Lands," shall extend to and comprise all lands, of

whatever tenure, holden of the manor, and whether the interests therein to be affected shall be an estate of inheritance in fee, or for life or lives absolute or

qualified, or for any other estate or interest whatsoever.

The word "Enfranchisement" shall mean and include the commutation or discharge of all lands holden of a manor from heriots, or any other manorial rights.

The word "Person" or "Party" shall extend to and include the Queen's

Majesty, and any body politic, corporate or collegiate, as well as an individual.

Every word imputing the "Singular Number" only, shall extend to and include several persons or parties, as well as one person or party, and several things as well as one thing respectively, and the converse.

And every word imputing the "Masculine Gender" only, shall extend to and include a female as well as a male.

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For the Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights.

[Note.—The Words in the Bill printed in Italics are proposed to be inserted in the Committee.]

tomary Tenure, and other Lands subject to Manorial Rights, on such a basis as shall be equitable towards the interests of all Parties affected; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT "THE TITHE Appointment of Com-COMMISSIONERS FOR ENGLAND AND WALES," for the time being, 10 shall (unless otherwise directed by one of Her Majesty's Principal Secretaries of State) be the Commissioners for carrying this Act into execution; and that should the same be not fully carried into execution before the duties of the said Tithe Commissioners shall cease, or it should at any time appear expedient to appoint another person or 15 other persons as Commissioner or Commissioners for the purposes of this Act, it shall be lawful in any such case for one of Her Majesty's Principal Secretaries of State to appoint any number of fit persons, not exceeding Three, to be Commissioners to carry this Act into execution, either solely or jointly with others, as occasion may require, 20 and at pleasure to remove any one or more of the Commissioners so appointed or acting; and upon every vacancy in the office of Commissioner some other fit person shall be appointed to the said office in like manner; and until such appointment it shall be lawful for the continuing Commissioners or Commissioner to act as if no such

missioners.

81.

vacancy had occurred.

· 1₂. Style of Commissioners.

And be it Enacted, That the Commissioners acting in the execution of this Act shall be styled "THE COPYHOLD ENFRANCHISEMENT COMMISSIONERS," and shall have their Office in London or Westminster; and they or any Two of them may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the said Commissioners shall cause to be made a Seal of the same Board, and shall cause to be sealed or stamped therewith all agreements, and awards or apportionments confirmed by the said Commissioners in pursuance of this Act; and all such agreements, awards, apportionments and other instruments 10 proceeding from the said Board, or copies thereof, purporting to be sealed or stamped with the seal of the said Board, shall be received in evidence, without any further proof thereof; and no agreement, award or apportionment shall be of any force unless the same shall be sealed or stamped as aforesaid.

To have Com-

mou Seal.

Instruments sealed to be received in evidence.

Commissioners to report to Secretary of State.

AnnualReport to be laid before Parliament.

Power to appoint and remove Assist-

ant-commis-

sioners. Secretary, &c.

And be it Enacted, That the said Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings, or any part thereof, as the said Principal Secretary of State shall require, and shall once in every year send to one of the Principal Secretaries of 20 State a general Report of their proceedings; and every year such general Report shall be laid before both Houses of Parliament, within Six Weeks after the receipt of the same by such Principal Secretary of State, if Parliament be sitting, or if Parliament be not sitting, then within Six Weeks after the next meeting thereof.

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And be it Enacted, That it shall be lawful for the said Commissioners, from time to time, to employ such of the Assistant-commissioners appointed under the provisions of an Act passed in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, and intituled, "An Act for the Commutation of Tithes in Eng- 30 land and Wales," as they shall see fit, or to appoint a sufficient number of other persons to be Assistant-commissioners, and also a Secretary assistant-secretary, and all such clerks, messengers and officers as they shall deem necessary, and to remove such Assistant-commissioners, Secretary, assistant-secretary, clerks, messengers or officers, or any of 35 them, and on any vacancy in any of the said offices to appoint some other person to the vacant office; and the persons so employed or appointed shall assist in carrying this Act into execution, at such places and in such manner as the said Commissioners may direct: Provided always, That the said Commissioners shall not appoint more 40 than Ten such Assistant-commissioners to act at any one time, unless the Lord High Treasurer, or any Three or more of the Commissioners of Her Majesty's Treasury, shall, in the case of each such appointment, consent thereto: Provided further, That the number of such

such clerks, messengers and officers shall be subject to the like consent.

And be it Enacted, That no Commissioner or Assistant-commissioner appointed as aforesaid shall, during the continuance of such office, be capable of being elected or of sitting as a Member of the House of Commons.

sit in House of Commons.

And be it Enacted, That no Commissioner or Assistant-commissioner, Secretary or other officer or person so to be appointed, shall hold his office for a longer period than Ten years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of Seven years and the then next Session of Parliament, so much of this Act as authorizes such appointment shall cease.

6. Operation of Act as to Appointments, limited to

And be it Enacted, That the salaries of the Commissioners, the

Allowances.

15 allowance to the Assistant-commissioners, and the salary of the Secretary, Assistant-secretary, clerks, messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord Treasurer or the Commissioners of Her Majesty's Treasury, or any Three of them: Provided always, That the salary of a Commissioner shall not exceed the sum of One thousand Five hundred Pounds a year, including any salary to which he may be entitled under the said Act of his late Majesty King WILLIAM the Fourth, nor the allowance to an Assistant-commissioner the sum of Three Pounds for every day that he shall be actually employed or 25 travelling in the performance of the duties of his office, including any allowance to which he may be entitled under the said Act, nor the salary of the Secretary or Assistant-secretary the sum of Eight hundred Pounds a year, and that the salaries of the clerks, messengers and other officers shall be in fit proportion: Provided also, 30 That the said Lord Treasurer or Commissioners may allow to any Commissioner or Assistant-commissioner, Secretary, Assistant-secretary, clerk, messenger or other officer, any such reasonable travelling or other expenses as may have been incurred by him in the performance of his duties under this Act, in addition to his salary or allowance 35 respectively.

And be it Enacted, That the salaries, allowances, and travelling and other expenses of the Commissioners, Assistant-commissioners, Secretary, Assistant-secretary, clerks, messengers and officers as aforesaid, and all other incidental expenses of carrying this Act into 40 execution not hereinbefore otherwise provided for, shall be paid bu the Lord Treasurer or the Commissioners of Her Majesty's Treasury out of the Consolidated Fund.

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And

Declaration Commissioners, &c.

And be it Enacted, That every Commissioner shall, before he shall enter upon the execution of his office, make the following Declaration before one of the Judges of Her Majesty's Courts of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

" I, [A. B.,] do solemnly declare, That I will faithfully, impartially and honestly, according to the best of my skill and judgment, fulfil all the powers and duties of a Commissioner under an Act passed in the year of the reign of Queen VICTORIA, intituled, [here set forth the Title of this Act.]"

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And that every such Assistant-commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "Assistant-commissioner" for the word "Commissioner"), before such Judge or Baron, or before any two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant-commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such Commissioner and Assistant-commissioner, with the time when, and the name or names of the Judge, Baron, Justices or Master Extraordinary before whom he shall have made the declaration as aforesaid, shall be forthwith published in the London Gazette.

10. Commissioners may delegate powers,

And be it Enacted, That the saidCommissioners may delegate to their Assistant-commissioners, or to any one or more of them, such of the powers hereby given to the said Commissioners, as the said Commissioners shall think fit, except the power to confirm agreements, awards or apportionments, or to frame forms of agreements and other instruments as hereinafter provided, or to do any act herein required to be done under the seal of the Commissioners; and the powers so delegated 30 shall be exercised under such regulations as the said Commissioners shall direct; and the said Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and notwithstanding the delegation thereof may act as if no such delegation had been made; and all acts done by any such Assistant-commissioner, in pursuance of such delegated powers, shall be obeyed by all persons as if they had proceeded from the said Commissioners, and the non-observance thereof shall be punishable in like manner.

11. Manors and Lands vested in the Crown.

And be it Enacted, That whenever the ownership of any Manor or Lands to which the provisions of this Act are intended to apply is vested in Her Majesty, the First Commissioner of Her Majesty's Woods, Forests and Land Revenues for the time being, or in case such Manors and Lands shall be vested in Her Majesty in right of the Duchy of Lancaster, or of the Duchy of Cornwall, the Chancellor of the Duchy of Lancaster, or the officers of the Duchy of Cornwall entitled to grant leases of lands, parcel of the Duchy of Cornwall, shall for the purposes of this Act be substituted instead of the owner of such manors or lands respectively.

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And be it Enacted, That whenever the lord or tenant of a manor, or any person interested in any question or right connected with any enfranchisement under this Act, shall be a minor, idiot, lunatic, feme covert, beyond the seas, or under any other legal disability, the guardian, trustees, committee of the estate, husband or attorney, respectively, or in default thereof such person as may be nominated for that purpose by the Commissioners, after due inquiry shall have been made by them as to the fitness of such person, and whom they are hereby empowered to nominate under their hands and seal, shall, for the purposes of this Act, be substituted in the place of such lord, tenant or other person.

12.
In case Lord or Tenants under disabilities.

And be it Enacted, That it shall be lawful for any lord or tenant of a manor, or any other person interested in any enfranchisement under this Act by a power of attorney given in writing under his hand from 20 time to time, to appoint an agent to act for him in carrying into execution the provisions of this Act; and all things which by this Act are directed or authorized to be done by or in relation to any person, may be fully done by or in relation to the agent so duly authorized of such person; and every such agent shall have full power in the name and on 25 behalf of his principal to concur in and execute any agreement, and vote in any question arising out of the execution of this Act, and make any inspection and sign any notice of objection under the provisions of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the 30 principal of such agent had so acted; and the power of attorney under which the agent shall have acted, or a copy thereof authenticated by the signature of Two credible Witnesses shall at the first meeting under the Act attended by such attorney under such power, or whenever requested by the chairman or by any other interested party present at such meeting, be delivered to the chairman for the time being, and the same or any like copy shall be appended to every agreement executed by any such attorney, and shall be sent with it to the office of the Commissioners as hereinafter provided: Provided always, That if any person having made such an appointment shall deliver notice in writing of the revocation thereof to the chairman at any such meeting, no act which shall be done by the person so appointed after the delivery of such notice, without a fresh appointment, shall bind the principal; and any such Power may be in the form following:

13.
Agent may be appointed by Power of Attorney.

" Manor of in the County of
" I, A. B. of, &c., Lord [or, Copyholder, Customary Tenant
81.

A 3 or

or Freeholder, as the case may be] of the said Manor, do hereby appoint C. D. of, &c., to be my lawful Attorney to act for me in all respects as if I myself were present and acting in the execution of an Act passed in the year of the reign of Her present Majesty, intituled, [here insert the title of this Act.] Dated this day of One thousand eight hundred and

(signed) A. B."

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Meeting at which a majority in number and Two-thirds in value may agree on terms of enfranchisement, which shall bind all. Twenty-one days' notice to be given, and to be twice advertised.

And be it Enacted, That any one or more of the lords or tenants of any manor whose interest respectively shall not be less than Onefourth of the whole annual value of the manor or lands holden thereof, may call a meeting of the lords and tenants of such manor, by notice thereof in writing under his or their hands, to be affixed at least Twenty-one Days before such meeting on the principal outer door of the church of the parish within the limits of which the said manor or the greater part thereof in value extends, or on the door or on some conspicuous part of some house or building wherein the courts for the said manor are usually held, and to be twice at least within such Twenty-one Days inserted in some newspaper (or once in each of two newspapers generally circulated in the county within which the said manor or the greater part thereof as aforesaid extends,) for the purpose of making an agreement for the general enfranchisement of lands holden of such manor; and every lord and tenant, attending such meeting shall bear his own expenses of attendance; and the lord and tenants who shall be present at any such meeting called as aforesaid, and who shall not be less than a majority in number of the tenants of such manor, and whose interest in the manor and lands respectively shall not be less than Two-thirds of the annual value thereof, computing as hereinafter is provided, may proceed to make and execute such an agreement as is hereinafter mentioned for the enfranchisement of the lands holden of the said manor from all the manorial rights of the lord, except his rights (if any) in mines and minerals; and if expressly agreed between such lord and tenants, the enfranchisement may be made to extend to rights in mines and minerals, but otherwise shall not extend to or affect such rights; and thereupon such agreement shall be reduced into writing, and a memorandum thereof shall be signed by the persons so agreeing to such enfranchisement, or by their respective agents.

15.
Terms on which Agreement may be made.

And be it Enacted, That such agreement for enfranchisement from the rights of the lord may be entered into in either of the modes hereinafter mentioned; that is to say, either on payment to the lord of a sum certain for the enfranchisement of all the lands holden of the manor for which such meeting shall have been called, from all the lord's rights in such lands, or on payment of a sum certain

certain for all arbitrary fines; a sum certain for all fines certain; a sum certain for all heriots in kind; a sum certain for heriots certain; a certain number of years' purchase for quit and other manorial rents; a sum certain for all the lord's rights in timber; and if the lord shall be entitled to any other species of manorial right in such lands, except in mines and minerals, a sum certain for every such species of right; or it may be agreed that the sum or sums to be paid for enfranchisement as aforesaid, or any of them, shall be subject to increase or diminution by the valuers to 10 be appointed as hereinafter mentioned, to such an amount per centum as shall be therein expressed; or that the sum or sums to be paid for enfranchisement as aforesaid, or any of them, or the apportionment for each tenant, shall be fixed by such valuers, subject to the approbation of the Commissioners; and all other provisions may be made for 15 carrying into execution the intention of the parties and of this Act. so that nothing in such agreement contained (unless every tenant interested therein shall be a party thereto) shall exclude or prevent the exercise of the powers hereinafter contained for apportioning the sum or sums to be paid for enfranchisement according to the parti-20 cular circumstances of each tenement, and for the relief of persons having life or other limited interests in the cases hereinafter provided for; and such agreement may provide for the costs of the proceedings under this Act, subject to the approbation of the Commissioners, and may also fix the annual value of the fees and 25 emoluments of the steward and other officers of the manor of which they will be deprived by such enfranchisements, in order that the Commissioners may be enabled to award compensation as hereinafter mentioned: Provided always, That if there shall be a separate commutation for any species of manorial right, each of 30 such commutations shall require the concurrence of Two-thirds in interest (computed as hereinafter mentioned) of the tenants liable to the right or rights so commuted, and in case of doubt or difference as to the sufficiency of such interest, the decision of the Commissioners thereon shall be conclusive; and every agreement 35 so made and executed, and confirmed in manner hereinafter mentioned, shall be binding on all persons interested in such manor or lands.

And be it Enacted, That the said lord and tenants present at such meeting shall elect a chairman (the vote of the lord being reckoned as equal to one-third of the whole number of votes, and the votes of the tenants being reckoned individually), who shall forthwith proceed to ascertain the number and interest of the lord and tenants then present in person or by their agents; and in case it shall thereupon appear that the persons present at such meeting are not sufficient in number and interest to make and execute such an agreement as shall

16. Provisional Agreement. be binding on all persons interested therein, it shall be lawful notwithstanding for any number of the persons present to make and execute a provisional agreement for the enfranchisement of the like form and tenor; and every such provisional agreement which shall be executed within Six calendar Months from the day of such meeting, by such persons as would have been sufficient in number and interest to make a binding agreement at such meeting, shall be as binding as if the same had been sufficiently executed at such meeting.

17.
Proportional interest, how to be computed for purpose of voting.

And be it Enacted, That the proportional interest of the tenants, so 10 far as relates to their power to make such agreement or provisional agreement, or to appoint valuers, or to give any notice to the Commissioners or Assistant-commissioners, as hereinafter provided, shall be estimated in manner hereinafter mentioned: that is to say, the interest of the tenants liable to fines arbitrary or uncertain in amount, shall be estimated according to the proportional sum at which their lands shall be rated to the relief of the poor in the parish or place wherein the same are situated, and, if there should be no such rates. according to the rules by which property of the same kind is in the largest adjoining parish rated to the relief of the poor; the 20 interest of tenants liable to fines certain, shall be estimated as if the annual value of their lands were One-tenth of the annual value at which they would have been estimated if subject to arbitrary fines; the interest of tenants liable to heriots in kind, if not also liable to fines arbitrary or uncertain in amount, shall be estimated as if the 25 annual value of their lands were One-fifth of the annual value at which they would have been estimated if subject to arbitrary fines, except that in every case wherein there shall be a separate commutation for any manorial rights, the interest of the tenants liable to heriots in kind, so far as relates to the proportion necessary to 30 make such commutation binding on the whole, shall be estimated according to the number of heriots in kind to which the respectively liable; the interest of tenants liable to manorial rights in timber, and not liable to fines or heriots in kind, shall on ly be computed in case such rights shall not be included in the commutation with fines or heriots in kind, when their interest be estimated according to the value of the timber standing on respective lands, after a sufficient allowance for such timber as might be cut for repairs or without payment of a fine; and the interest of tenants liable to any other manorial rights, and not liable 40 to fines or heriots in kind, shall not be computed unless for the purpose of making a separate commutation, when their interest shall be computed in such manner as the Commissioners shall direct ; where any question shall arise as to right to vote, or amount in respect of which any vote should be given, or agreement signed, the chairman

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man of any meeting, or adjourned meeting, shall have power to decide such question; and should any question arise before the appointment of a chairman, the majority in number of the persons present, being lords or tenants of the manor, shall forthwith choose the chairman, who shall then decide the question: Provided always, That the interest of no copyholder shall be computed who has not been admitted tenant or who has made an absolute surrender of all his estate and interest therein.

18.
Meeting may
be adjourned,
Notice being

And be it Enacted, That in case an adjournment of the said meeting shall for any cause be desired by a majority in number of the persons attending such meeting, the chairman shall adjourn the meeting to any time and place then by him to be declared, and so from time to time, in case the same shall be in like manner desired by a majority of the persons attending such meeting as aforesaid; and notice of every such adjourned meeting shall be given, under the hand of the chairman, and shall be affixed in a conspicuous place on the outside of the building in which such meeting, or the last adjournment thereof, shall have been holden, and once advertised in a newspaper as aforesaid; and the like order of proceeding shall be observed at any such adjourned meeting shall be as valid as if done at the original meeting.

And be it Enacted, That every such agreement shall bear date on the day on which the first signature is attached thereto, or to the minutes thereof, and shall be in such form as the Commissioners shall from time to time direct, or to the like effect.

19. Agreement to be in the form which Commissioners shall direct.

And be it Enacted, That the Commissioners shall frame and cause to be printed, so soon as conveniently may be after their appointment or beginning to act, forms of notices and agreements, and such other instruments as in their judgment will further the purposes of this Act, and supply all or any of such forms to any person or persons requiring the same, or to whom the Commissioners shall think fit to send the same, for the use of any lord or copyholder or other tenant desirous of putting this Act into execution.

20. Commissioners to frame and circulate Forms, &c.

And be it Enacted, That any Commissioner or Assistant-commissioner, if the Commissioners shall think fit, may attend any such meeting for the purpose of taking part in the discussion and advising on the terms of agreement; but no Commissioner or Assistant-commissioner, during the time that he is actually attending the meeting for such purpose, shall have any of the powers herein given to the Commissioners in case of an award or apportionment by the Commissioners as hereinafter provided.

21. Commissioners or Assistantcommissioner may attend to advise Terms of Agreement.

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And

• 22.
Suits and
Differences
as to Rights
or Boundaries
may be referred to
Arbitration.

And be it Enacted, That if any action or suit shall be pending. touching the right to or amount of any fines, heriots or other manorial rights, or touching the situation or boundary of any lands, or if any difference shall arise whereby the making and executing of any such agreement shall be hindered, it shall be lawful for the lord and tenants or claimants, being parties to such action, suit or difference, to submit the same to reference by any writing under their respective hands, containing an agreement that such submission shall be made a rule of any of Her Majesty's courts of law, upon such terms of reference as the said parties may agree 10 upon; and the decision of the arbitrator or arbitrators named in the said reference, shall be final and conclusive on all persons: Provided nevertheless, That no person being owner of an estate in a manor or lands less in the whole than an immediate estate of fee-simple or fee-tail, or corresponding copyhold estate, shall be empowered to submit to any such reference, so as to bind any person in reversion, remainder or expectancy, without the consent of the Commissioners; and that it shall be lawful for the Commissioners sioners, if they shall think fit so to do, but not otherwise necessary. to direct that any person in reversion, remainder or expectancy, 20 whom they shall deem to be interested therein, shall be made a party to such reference.

23.
Consents to be required to Agreement.

Provided always, and be it Enacted, That in every case in which any manor or lands shall be held under any Archbishop, Bishop, Dean and Chapter, Archdeacon or any ecclesiastical corporation, or any 25 body politic, or any such parties, persons or bodies politic shall be interested in any manors or lands to the extent of One-third of the value thereof, computed as to such lands as aforesaid, and it shall appear to the Commissioners that the interests of such parties, persons or bodies politic would be affected by the enfranchisement under 30 this Act, no agreement to be made and executed under this Act shall be deemed to be executed by the said lord and tenants, unless the consent of such parties, persons or bodies politic whose interests appear to the Commissioners to be so affected, shall be given under the hand or seal of the party, person or body politic giving the same; 35 and such consent shall be annexed to the agreement for enfranchisement, and taken as part thereof.

24. Consent of Mortgagees, &c.

Provided always, and be it Enacted, That in every case in which any manor or lands shall be mortgaged or otherwise charged at the time of any agreement or enfranchisement under this Act, or it shall 40 appear to the Commissioners to be so circumstanced that the interests of any persons having any estate therein or claim thereon would be affected by such enfranchisement, then and in such cases no agreement

ment to be made and executed under this Act shall be deemed to be executed by the said lord and tenants, unless the consent of such mortgagees or other persons shall be given under their hands; and such consent shall be annexed to the agreement for enfranchisement, and taken as part thereof.

And be it Enacted, That every such agreement, as soon as may be after it shall have been executed by the lord and tenants, to the number and value as aforesaid, shall be sent by the chairman of the meeting, or by the person in whose custody it shall then be, to the office of the Commissioners, and the Commissioners, by themselves, or by some Assistant-commissioner, shall cause inquiry to be made, and shall require such proof as will be satisfactory to them, whether or not it ought to be confirmed; and if they shall be satisfied that it ought to be confirmed, the Commissioners shall confirm the agreement under their hands and seal, and shall add to such agreement the date of the confirmation, and shall publish the fact of such confirmation, and the date thereof, within the manor, in such way as they shall deem fit; and every such confirmed agreement shall be binding on all persons interested in the said manor and lands.

25.
Agreement to be confirmed by the Commissioners.

26.
Appointment of Valuers.

And be it Enacted, That at the said meeting for enfranchisement, or at some adjournment thereof, or at some other meeting to be called in like manner, either before or after the confirmation of the agreement, valuers shall be appointed, in manner hereinafter mentioned, 25 for the purpose of making such valuations, apportionments and schedules as shall be required for carrying the said agreement into execution; and in case such enfranchisement shall be in consideration of a fixed sum payable to the lord, the tenants present at such meeting shall appoint a valuer or valuers; and in case the majority in respect of number and the majority in respect of value (computed as aforesaid) shall not agree upon the appointment, then they shall appoint Two or such other even number of valuers as shall be then agreed on by such tenants, half of such number of valuers to be chosen by a majority in respect of number, and the other half by a majority in respect of value (computed as aforesaid), of the tenants then present in person or by their agents; and when such enfranchisement shall not be in consideration of a fixed sum, payable to the lord, one-half of the number of valuers shall be appointed by the lord, or the majority of the lords in value, and the other half by the tenants in manner aforesaid, or such respective parties may concur in the appointment of one or more valuer or valuers, and any question which may arise as to the regularity of the appointment of such valuer or valuers, shall be decided by the said Commissioners.

And

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27. . Valuation.

And be it Enacted, That as soon as may be after the choosing such valuers, and after the confirmation of the said agreement, the said valuers shall apply to the said Commissioners for instructions as to the duties to be performed by them pursuant to such agreement, and having received such instructions shall proceed to make and send in to the said Commissioners such valuations, apportionments and schedules as they shall require: Provided, That it shall be lawful for the said valuers, when an even number shall be chosen, by any writing under their hands, to appoint an umpire before they proceed upon the business of such valuation, and the decision of the umpire, on the questions in difference between the valuers, shall be binding on them respectively, and shall be adopted by them respectively in their valuation: Provided also, That in case of neglect to appoint such umpire, it shall be lawful for the Commissioners at any time to appoint a fit and proper person to be such umpire.

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28. Valuers may enter on Lands, &c.

Must make Declaration.

And be it Enacted, That the said valuers and umpires respectively (if as to such umpires it shall become necessary for them to act respectively), and their agents or servants, at all reasonable times, may enter upon any of the lands and premises affected by such agreement, and make an admeasurement, plan and valuation or inspection of the same, without being subject to an action or molestation for so doing: Provided always, That no valuer or umpire shall be capable of acting until he shall have made and subscribed before the said Commissioners or some Assistant-commissioner, or a Justice of the Peace or Master Extraordinary in Chancery, a solemn declaration to the same purport and effect as the declaration hereinbefore directed to be made by the said Commissioners, substituting only the proper description of the office of such person for that of a Commissioner; which declaration it shall be lawful for the said Commissioners, Assistant-commissioner, Justice of the Peace or Master Extraordinary to administer; and every such declaration so made and subscribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the office of the Commissioners.

29.

Steward to

mation;

And be it Enacted, That for the purpose of enabling the said valuers to make such valuations, apportionments and schedules, and otherwise to facilitate enfranchisements under this Act, the steward of the manor for the time being shall, on request by the said valuers or any of them respectively, or the chairman of any meeting or adjournment thereof, or of any tenant having signed the notice of an intended meeting, make out, within such period as the Commissioners shall direct, a correct statement in writing of the several tenants of the said manor, and of the respective lands to which they shall respectively stand admitted for life or otherwise, or which

which they shall hold, subject to fines or heriots, and of the amount to which the same lands are rated to the relief of the poor, so far as he can distinguish or estimate the same, and of the amounts received by the lords on account of the three last heriots in respect of any such lands, and of any other information which the Commissioners shall from time to time direct, and which he has the means as such steward to obtain, and shall produce the same for inspection at any such meeting or adjournment thereof, on being paid for the same as hereinafter provided, and shall deliver to, or allow any extracts thereof, 10 as to such rating, to be taken by the chairman of such meeting, and shall, upon request by the said valuers, and being paid as aforesaid, deliver to them respectively a true copy of such statement or the parts thereof required by them, and for preparing such statement the said steward shall receive from the person requiring the same 15 such a remuneration as shall have been agreed to, or in case of difference, such a sum as the Commissioners shall under their hands order and direct; and for copies or extracts thereof the sum of Fourpence for each Seventy-two Words; and the said steward for the time being, or, if no steward, the lord, shall within Three calendar Months 20 after the signature of the said agreement, or whenever required by the Commissioners, make out and send to the said Commissioners a Schedule stating the names of the several tenants; to which class they respectively belong; their residences, descriptions and ages, so far as he can ascertain the same; when more than one tenant, whether 25 admitted as joint tenants or how otherwise; the description of the copyhold lands, whether copyhold, customaryhold subject to fines, customary freehold, or otherwise subject to manorial rights; in what parish situate; to what amount rated, or assumed proportion of rate if rated with other lands; and as to lands subject to fines, arbitrary 30 or dependent on yearly value, with what other lands rated; amount of quit or free rents, whether held at fines arbitrary on death and alienation, at fines certain, or how otherwise; whether subject to heriots, and the amount received for each of the Three last heriots for such tenement; whether subject to rights in timber, and what number to each 35 tenement, and the number of changes of tenant on each tenement, subject to fines on death or alienation during the previous Seventy Years, or such other number of years as the Commissioners shall in any case direct; the number of changes of tenant on each tenement subject to fines on death only; and comprising such other information, and in 40 such form as the said Commissioners shall from time to time direct, and stating at the foot of such Schedule the amount of compensation to which he makes claim, and the grounds upon which the same is computed; and for the purpose of ascertaining the ages of any tenants, it shall be lawful for the steward or lord to apply by letter (delivered or sent by post or left on the copyhold premises) for such information, and every tenant refusing or neglecting for the space of Twenty-one

81.

and make Schedule.

Days

Days to give such information, shall not be entitled to have any amendment made in such Schedule, by reason of any error the steward may commit in inserting such age, or to object to the apportionment hereinafter mentioned by reason of such mis-statement of age; and any tenant falsely stating his or her age shall forfeit and pay such sum not exceeding the sum of Ten Pounds, as the Commissioners shall under their hands order and direct, and which shall be added to the amount to be payable by him or her under the apportionment, and recoverable in like manner, and applied in and towards the costs of apportionment or other costs of enfranchisement, as the Commissioners shall direct, or shall be recoverable by distress or action as hereinafter provided with respect to costs payable under this Act; and the said steward shall receive for the said Schedule and the expense of application, as to ages and rates, such sum as the Commissioners shall deem fit and proper to allow for the same, with the other costs of apportionment; and in like manner such steward or lord shall from time to time make out and send to the Commissioners, upon request, all statements, schedules and information which they shall from time to time require; and in case default shall be made by the steward or lord in complying with any such request, he shall forfeit such sum and sums as the Commissioners shall from time to time in their discretion order and direct, and which sums shall be deducted from any compensation to be awarded him under this

30. Valuers to take particular circumstances of each case into consideration.

And be it Enacted, That when the said valuers shall be so instructed by the Commissioners, pursuant to such agreement, they shall accordingly proceed to apportion the sum or sums to be paid for enfranchisement, and in making such apportionment the said valuers shall take into account the age and interest of the tenant, the probability of early or frequent payments of fines or heriots, the facilities of improvement, and all other circumstances relating to the land to be enfranchised, and shall make due allowance for the same; and when the tenant shall have only a life estate or other limited interest in his land, it shall be lawful for the said valuers to defer the payment of the sum apportioned for such land until such period as they shall think fit, subject always to the approbation of the Commissioners; and where the annual value of the tenement to be enfranchised shall not exceed the sum of Twenty Pounds, it shall also be lawful for the said valuers to defer the payment of the sum apportioned for such land, until such period as they shall see fit, subject likewise to the approbation of the Commissioners; and it shall also be lawful for the said valuers to make such other allowances as they shall deem just for the particular circumstances of the several tenements, so that such allowances shall not be inconsistent with the said agreement for enfranchisement, and the instructions received from the said Commissioners.

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Schedules of Valuation to be deposited for inspection, and ineeting appointed for hearing objections.

And be it Enacted, That as soon as the valuations, apportionments or schedules, to be so made by the said valuers as aforesaid, shall have been sent to the Commissioners, they shall cause a copy of the same to be deposited in the hands of the steward for the time being of the manor, or, if no steward, with the lord of the said manor, or with such person as they shall see fit, for the inspection of all persons interested therein within the manor, or within a parish wherein part of the manor is situated, and shall forthwith cause notice to be given through such steward or lord, or in such manner as to the Commis-10 sioners shall seem fit, of such copy being so deposited for inspection, and which inspection shall at all reasonable times up to the meeting after mentioned, be allowed by such steward or lord without fee, (and for every neglect to allow which, such steward or lord shall forfeit such sum not exceeding Twenty Shillings, as the said Commissioners shall 15 order and direct, and which shall be deducted from the sums payable to such steward or lord under this Act); and in such notice such place and time, or places and times, shall be fixed as the Commissioners shall think fit (the first not earlier than Twenty-one Days from the first giving such notice) for holding a meeting for hearing and 20 determining objections to the said valuation, or the amount of costs claimed by the said valuers, or to the said steward's schedule by any parties interested; and the said Commissioners, or some Assistant-commissioner (to whom respectively such steward or lord shall on the day before or previous to the commencement of such first meeting, as 25 required, deliver such copy of the said valuations, apportionments or schedules, with all notices received as hereinafter provided,) shall at such meeting or meetings hear and determine any objection which may then and there be made against the said valuations, apportionments or schedules respectively, or any part thereof, or adjourn the further hear-30 ing thereof, if they or he shall think proper, to a future time, and may, if they or he shall see occasion, direct any further valuations, apportionments or schedules, inquiries or statements to be made, and from time to time fix further meetings for the hearing and determining objections; of which further meetings, when not holden by adjournment, 35 notice shall be given in manner hereinbefore directed with regard to the original meeting: Provided, That no person shall be entitled to make any objection to any such valuations, apportionments or schedules, who shall not have left notice in writing of such intended objection with or for the steward or lord of the said manor with whom 40 such copies shall be deposited at the place of deposit thereof Five Days before the time fixed for any such meeting (exclusive of the day of leaving such notice, but inclusive of the day of meeting,) forms of which notices shall be forwarded by the Commissioners to the said steward or lord, or other person, and shall be by him delivered to any interested party requiring the same; and which notices the said steward or lord, or other person, shall immediately on receipt thereof annex to such copies.

copies, or one of them, and shall note such objection on the copy to which the same relates, and allow the inspection of the said notices in like manner and under the like penalty as aforesaid; and any default in any of the several matters and things hereinbefore required shall also subject such steward or lord, or other person, to the like penalty; and when the Commissioner or Assistant-commissioner shall have heard and determined all such objections, they and he are and is hereby required to cause such valuations, apportionments or schedules to be amended, as occasion shall require; and also from time to time, whether at such meeting or not, to amend the steward's schedule, so as to show all deaths and alterations in ages of the tenants or otherwise taking place after making out the same, and before the apportionment hereinafter provided for, on being satisfied by the affidavit of the steward, sworn before a Master Extraordinary in Chancery, or by such other proof as they or he may deem sufficient, that such amendments and alterations are required.

32. Expenses of Proceedings under the Act.

And be it Enacted, That the expenses of the proceedings under this Act shall (except in cases where, from special causes, the said Commissioners shall direct otherwise, and then as they shall direct,) be payable in manner following; (that is to say) where the valuers shall be appointed by the tenants, the costs of the valuations, apportionments and schedules shall be paid by the tenants rateably, according to their interest; but where the valuers shall be appointed by the lord and tenants as aforesaid, then if only two shall be appointed, the lord shall pay half the costs, and the tenants as aforesaid shall pay half; and where more than two valuers shall be appointed, the lord shall pay One-third and the tenants as aforesaid shall pay Two-thirds; and in all cases of dispute or difference as to the amount of the costs, or the persons on whom any costs should fall, the Commissioners shall have power to decide the same.

33. Schedule to be made by the Commissioners.

And be it Enacted, That forthwith after receipt of the valuations, apportionments or schedules so settled, the Commissioners shall cause a schedule to be made of the sums to be paid for enfranchisement by the several tenants, or charged on their respective lands, and of the periods of payment of the principal money respectively, or commencement of interest, either pursuant to the apportionment made by the said valuers, or as shall seem just to the Commissioners, having regard to all the circumstances of the case; and if the Commissioners shall think fit to award any compensation to the steward or other officers of the manor for the loss they may sustain by such enfranchisement, the said schedule shall contain an apportionment of the sum so awarded; and the said schedule shall contain all such other orders, awards and declarations as shall be required for carrying this Act into execution, according to the provisions therein contained.

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34. Schedule of

34. Schedule of Apportionment to be inspected, errors pointed out, and then confirmed.

And be it Enacted, That the Commissioners shall forthwith, after making such schedule, cause a copy thereof to be deposited with the steward, lord or other person as aforesaid, for inspection within the manor, or within some parish where part of the manor is situate, by any parties interested, and give notice of such power to inspect; and which inspection, during such period as the Commissioners shall direct, shall be allowed as aforesaid, under the penalty aforesaid, recoverable as aforesaid; and at the expiration of that period, the said steward, lord or other person as aforesaid shall return the same copy or copies 10 to the Commissioners, together with any notice he may have received during that period, pointing out any errors therein, and a statement of any errors which he may have discovered therein; and the said Commissioners shall forthwith inquire into and rectify any such errors therein, and shall cause the said schedule of apportionment 15 to be engrossed on parchment or paper, and annex thereto any agreements, schedules, maps, plans or other documents or writings required for elucidation thereof, and shall confirm such apportionment under their hands and seals, and shall add thereto the date of such confirmation.

> 35. Copies to be deposited with Steward and Clerk of the

And he it Enacted, That Two Copies of every confirmed instrument 20 or schedule of apportionment and confirmed agreement and schedules to be annexed thereto, or written in the same book therewith, shall be made and sealed with the seal of the said Commissioners, and one such copy shall be delivered to the steward of the manor, to be 25 deposited and kept with the Court Rolls thereof, and the other copy shall be deposited with the Clerk of the Peace for the county or jurisdiction within which the said manor, or the greater part thereof in value computed as aforesaid, shall be situated, to be by him and his successors in office kept with the papers and books of the Clerk 30 of the Peace for the time being; and all persons interested therein may have access to the said copies respectively, and shall be furnished with copies of or extracts from any such copy on giving reasonable notice to the party having the custody of the same, and on payment of Two Shillings and Sixpence for each inspection, and after 35 the rate of Threepence for every Seventy-two Words contained in such copy or extract; and every recital or statement in, or agreement, schedule, map, plan, document or writing annexed to such confirmed apportionment, shall be deemed satisfactory evidence of the matters therein recited or stated, or of the accuracy of such map or plan; and such deposit shall be notified by an advertisement or otherwise, as the Commissioners may from time to time direct.

And be it Enacted, That the Commissioners, if they shall see fit, before confirming any agreement, valuation, assessment, schedule or 81.

36. Notice to Parties. apportionment, may require notice thereof to be given in such manner as they shall direct to the person next in remainder, reversion or expectancy of an estate of inheritance in any manor or lands, or any other person to whom they may think notice ought to be given, and may by themselves or by some Assistant-commissioner hear and determine any objection made to such confirmation by any persons o interested therein, and may direct any agreement, valuation, assessment, schedule or apportionment to be amended accordingly.

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37. Commissioners may correct errors with consent.

And be it Enacted, That it shall be lawful for the said Commis—sioners to correct or supply any manifest error or omission in any agreement, valuation, assessment, schedule or apportionment at any time after the same shall respectively have been made, with the consent in writing of all the parties interested therein, but not other—wise, or with such consent to supply any other error or omission.

38. Compulsory Enfranchise-

And be it Enacted, That after the First day of August One thousand eight hundred and Forty-two, the Commissioners shall proceed in manner hereinafter mentioned, at such time and in such order as to them shall seem fit, either by themselves or some Assistant—commissioner, to ascertain the total sums to be paid for the enfranchise—ment of the lands in the manors in which no agreement binding on the lord and tenants as aforesaid shall have been made and confirmed as aforesaid: Provided nevertheless, That if any proceeding shall be had towards the making and executing any such agreement after the Commissioners shall have given or caused to be given notice of their intention to act as aforesaid in such manor, the Commissioners may, if they shall think fit, refrain from acting until the result of such proceedings shall appear.

39. Commissioners to require information from Steward.

And be it Enacted, That in every case in which the Commissioners shall intend proceeding towards such enfranchisement, they shall 30 require the steward of the manor, or the lord, where there shall be no steward, to furnish them with a particular or schedule as or to the effect hereinbefore required to be furnished in the case of voluntary enfranchisement for the purpose of apportionment, and which shall contain a statement of the claim which such steward makes for com-35 pensation on such intended enfranchisement, and also such further information as the Commissioners shall from time to time require relative to the said manor, and which schedule and information the said lord and steward respectively are required to furnish, and from time to time give in like manner and with and under the like powers and provisoes and penalties as are hereinbefore enacted with respect to voluntary enfranchisement; and a duplicate of such schedule and of such information, or so much thereof as the said Commissioners shall

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shall direct, shall be kept by the said steward or lord within the said manor, or a parish wherein part of the lands copyhold thereof are situate, for inspection by all interested parties for such periods as the said Commissioners shall from time to time direct, and in default of such direction during the whole period which shall intervene between the sending such schedule and information to the Commissioners, and the first meeting to be held as hereinafter mentioned; and the Commissioners shall furnish such steward or lord with forms of notice of objection to such schedule, and which shall be delivered by such steward or lord to all interested parties upon request.

And be it Enacted, That forthwith after receipt of such schedule and information, the Commissioners shall cause notice to be given, in such manner as they may deem expedient, of the said duplicate remaining in the hands of the said steward or lord for the inspection 15 of any person interested; and shall also in such notice appoint some convenient place and such time or times as they shall think necessary (the first not earlier than Twenty-one Days from the first giving of such notice) for holding a meeting to hear objections to the said schedule by any person interested, and who shall give Five Days' 20 previous notice in writing to the said steward of the ground of such objection, and to appoint valuers as after mentioned; and the said Commissioners or some Assistant-commissioner shall at such meeting hear and determine any objections which may be then and there so made, or adjourn the further hearing thereof, if they or he 25 should think proper, to a future meeting; and at such meeting or adjourned or subsequent meeting (such subsequent meeting to be called in like manner, or otherwise as hereinbefore provided in the case of voluntary enfranchisements) such objections shall be heard and determined, and such amendments made in the said schedule as 30 shall be necessary by reason of such objections, or the deaths of tenants, or other alterations, during the progress of such inquiries or meetings; and the amount of compensation to be paid to the steward shall also be determined at such meeting or meetings by the said Commissioners or Assistant-commissioner; and valuers shall be ap-35 pointed as is hereinbefore provided on voluntary agreements, in cases where one-half the number of such valuers are to be appointed by the lords, and the other half by the tenants; and which valuers respectively, and their respective umpires (to be appointed in like manner as hereinbefore is provided with respect to voluntary agree-40 ments) shall make the like declaration, and act in like manner, and with the like powers, and under the like provisoes as if their appointments respectively had taken place under a voluntary agreement for

40. Notice of Inspection and meeting to hear objection to Steward's Schedule, and to appoint Valuers.

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enfranchisement, as hereinbefore mentioned and provided.

4-1. In all cases under the Act, if Valuers not appointed in Six Months, or valuation not made in that period, Commissioners may appoint

Months after the day of the first meeting for appointment of valuers in the cases lastly hereinbefore provided, or if within the like period from the confirmation of any voluntary agreement to be made as hereinbefore mentioned, no valuers shall have been appointed, or their valuation, apportionments or schedules (as the case may be respectively shall not have been made and sent to the office of the Commissioners, it shall be lawful for the Commissioners from time to time to appoint such competent person or persons as they shall deem fit as valuer or valuers, with the like powers and duties, and whose costs and expenses shall be payable in like manner as is herein before provided with respect to valuers to be appointed and acting under any voluntary agreement for enfranchisement.

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42. Schedules of valuation to be inspected, and meeting held to hear objections.

And be it Enacted, That as soon as the said valuers shall have made such valuation and schedules and the same shall have been sem t to the Commissioners, they shall cause a copy thereof respectively to be deposited in the hands of the steward or lord, or other person, a.s. hereinbefore provided with respect to the case of voluntary enfranchisement, for the inspection of all tenants and parties interested, and which inspection shall be allowed as fully, and in like manner and subject to the like provisoes and penalties as are hereinbefore enacted with respect to voluntary enfranchisement; and the Commissioners shall in like manner cause notice to be given of, and hold, such meeting or meetings for hearing and determining objections to such schedules respectively, and shall proceed thereon, and to amend the same as is hereinbefore provided with respect to voluntary enfranchisements, and shall in like manner from time to time make the requisite amendments in such schedule, in consequence of deaths or otherwise as aforesaid.

43. Expenses.

And be it Enacted, That the costs and expenses of such valuation and schedules, and the costs of the apportionment after mentioned, shall be payable and paid in like manner as is hereinbefore provided with respect to costs and expenses under voluntary enfranchisements.

44. Apportion-ment.

And be it Enacted, That the Commissioners shall also forthwith after such schedules respectively shall be so settled and amended, cause an apportionment to be made of the sums to be paid by each tenant and otherwise in like manner as is hereinbefore provided with respect to voluntary enfranchisements, and shall cause a like apportionment to be made of the compensation (if any) payable to the steward or other officers of the manor, and of the costs of the proceedings; and the Commissioners shall in like manner cause a schedule of such apportionment and a copy thereof to be made, and shall cause the like inspection thereof as is hereinbefore provided

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vided with respect to voluntary enfranchisements, and shall in like manner proceed to confirmation and engrossment thereof, and the deposit of copies thereof, and of the schedules and papers relating thereto, with the steward of the manor and Clerk of the Peace in manner hereinbefore mentioned.

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And be it Enacted, That before confirmation of any such compulsory enfranchisement, notice shall be given to such persons, and in like manner on the same being required by the Commissioners, as is hereinbefore provided with respect to voluntary enfranchisement.

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Apportionment not to be
questioned
after confir-

And be it Enacted, That no confirmed valuation, apportionment or schedule under any compulsory enfranchisement, shall be impeached after the confirmation thereof by reason of any mistake or informality therein, or in any proceedings relative thereto, except with the consent of all parties interested therein.

47.
Commissioners may hear
and determine
disputes.

And be it Enacted, That if any action or suit shall be depending, touching the right to or amount of any fines or other manorial payments or incidents, or any question shall arise thereon, or as to the boundary of any lands, or precise situation of such lands as shall be intermixed with other lands, or the exact quantity of such lands, or any difference shall arise whereby the proceedings to effect any such enfranchisement, whether voluntary or compulsory as aforesaid, shall be hindered, it shall be lawful for the Commissioners or Assistantcommissioner to appoint a time and place in or near the manor for hearing and determining the same, and to inquire into, hear and determine such right or amount, or such question or questions as aforesaid; and the decision of the Commissioners or Assistant-commissioner at such meeting, or any adjourned or renewed meeting, shall, subject to the provisions hereinafter contained, be binding and conclusive on all persons to whom Twenty Days' notice of the time, place and intent of such meeting shall have been given or left at their usual place of abode, or left with the occupying tenant of the lands to which such meeting shall relate, his, her and their heirs, executors, administrators and assigns, and the successors of any body politic or corporate; and such occupying tenant shall forthwith send such notice by post or otherwise to the party for whom the same was left, and in default of so doing shall be liable to the penalty of not more than Five Pounds, and not less than Twenty Pounds, to be recovered before two of Her Majesty's Justices of the Peace, on summary application in manner hereinaster mentioned, and shall also be liable to pay and make good to such party all damage which he may sustain by such default, to be recovered with full costs of suit in an action in any of Her Majesty's courts of law at Westminster.

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Subject to appeal by Issue at law, or in case stated.

Provided always, and be it Enacted, That any person claiming to be interested in any lands, who shall be dissatisfied with any such decision of the Commissioners or Assistant-commissioner, may, if the yearly value of the payment to be made or withholden according to such decision shall exceed the sum of Twenty Pounds, cause an action to be 5 brought in any of Her Majesty's courts of law at Westminster agains t the person in whose favour such decision shall have been made, within Three calendar Months next after such decision shall have been notified in writing, in such manner as the Commissioners or Assistant commissioner shall direct, to the parties interested therein, or to their known agents, in which action the plaintiff shall deliver a feigned issue, whereby such disputed right may be tried, and shall proceed to a trial at law of such issue at the sittings after the term, or at the assizes then next, or next but one, after such action shall have been commenced, to be holden for the county within which the lands, or the 15 greater part thereof, are situated, with liberty nevertheless for the court in which the same shall have been commenced, or any Judge of Her Majesty's courts of law at Westminster, to extend the time for going to trial therein, or to direct the trial to be in another county, if it shall seem fit to such court or Judge so to do; and every defendant in any such action shall enter an appearance thereto, and accept such issue; but in case the parties shall differ as to the form of such issue, or in case the defendant shall fail to enter such appearance or accept such issue, then the same shall be settled under the direction of the court in which the action shall be brought, or by 25 any Judge of Her Majesty's courts of law at Westminster, and the plaintiff may proceed thereon in like manner as if the defendant had appeared and accepted such issue; and the parties in such action shall produce to each other, and their respective attornies or counsel, at such time and place as any Judge may order before trial, and also 30 to the court and jury upon the trial of any such issue, all books, deeds, papers and writings, terriers, maps, plans and surveys relating to the matters in issue in their respective custody or power; and it shall be lawful for the Judge by whom any such action shall be tried. if he shall think fit, to direct the jury to find a verdict, subject to the opinion of the court upon a special case; and the verdict which shall be given in any such action, or the judgment of the court upon the case, subject to which the same may be given, shall be final and binding upon all parties thereto, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to 40 be had therein, which it shall be lawful for the said court to do if it shall see fit: Provided also, That in case any such decision shall involve a question of law only, and the parties in difference shall be agreed upon the facts relating thereto, and whereon such decision shall have been founded, the said Commissioners or Assistant—commissioner, at the request of the person dissatisfied (such request made

made in writing within Three calendar Months after such decision, and at least Fourteen Days' previous notice in writing of such request to be given in like manner to the other parties in difference, or to their known agents), shall direct a case to be stated for the opinion of such one of Her Majesty's courts of law at Westminster as the Commissioners or Assistant commissioner shal think fit; which case shall be settled by them or him, or under their or his direction, in case the parties differ about the same, and may be set down for argument, and be brought before the court in like manner as other cases 10 are brought before the court; and the decision of such court upon every case so brought before it, shall be binding upon all parties concerned therein: Provided always, That after such verdict given and not set aside by the court, or after such decision of the court, the said Commissioners or Assistant-commissioner shall be bound by such 15 verdict or decision; and the costs of every action, or of stating such case and obtaining a decision thereon, shall be in the discretion of the court in or by which the same shall be decided, which may order the same to be taxed by the proper officer of the court; and the like execution may be had for the same, as if such costs had been reco-20 vered upon a judgment of record of the said court.

And be it Enacted, That no proceedings of or before the Commissioners or Assistant-commissioner, or in any action, or in any case stated or reference in pursuance of this Act, shall abate or cease by reason of the death of any person interested therein.

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49. Proceedings not to abate by death of parties.

And be it Enacted, That if any person in whose favour any such decision of the Commissioners, or any Assistant-commissioner, shall have been made, shall die before any such action shall have been brought or case stated, and before the expiration of the time hereinbefore limited for that purpose, it shall be lawful for any person who might have brought such action, or have had such case stated against the person so dying, to bring or have the same within the time so limited as aforesaid, nominally against such person, as if living, and to serve the said Commissioner or Assistant-commissioner with process, and notices relating thereto, in the same manner as the person deceased might have been served therewith if living; and it shall be lawful for every person entitled to the benefit of such decision as aforesaid, or in case of any such person being a minor, idiot, lunatic, feme covert, beyond the seas, or labouring under any other legal disability, the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the Commissioners, and whom they are hereby empowered to nominate, under their hands and seal, to appear and defend such action, or argue such case, and proceedings shall be had therein, in the like manner, and the rights of all persons shall be equally bound

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50. In case of death of parties before actions brought, &c. the same to be brought and carried on in their names.

and concluded by the event of such action, or the decision of such case, as if such person had been living, or free from disability; and the costs of every such action or case shall be in the discretion of the court, as aforesaid.

51. Statute of Limitations not to be uffected.

Provided always, and be it Enacted, That nothing in this Act contained shall revive any right to fines or other manorial claims which now are or hereafter shall be barred by any law in force for the limitation of actions or suits.

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52. Power to examine Witnesses, call tor papers, &c. where agree ment has been signed by twothirds in value of lands.

And be it Enacted, That the said Commissioners, or any Assistantcommissioner, may, by summous under their or his hands or hand. require the attendance of all such persons as they or he may think fit to examine, upon any matter brought before them or him, or respecting which they or he have or hath power to act as hereinbefore mentioned, relating to the enfranchisement of copyhold or customary freehold lands, or the discharge of any manorial rights, and also make any inquiry, and call for any answer or return as to such matter, and also administer oaths, and examine all such persons upon oath, and cause to be produced before them or him, upon oath, all deeds, documents and writings, books, court-rolls, rentals, contracts, agreements, accounts, writings, papers, maps, plans and surveys, or copies thereof respectively, in anywise relating to any such matter: Provided always, That no such person shall be required, in obedience to any such summons, to travel more than Ten Miles from the place of his abode, or produce any deeds, papers or writings relating to the title of any lands, unless such production. shall appear to the said Commissioners or Assistant-commissioner essentially requisite in making the inquiries to be made under this Act.

53. Witnesses.&c.

And be it Enacted, That the Commissioners or Assistant-commissioner, in any case where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, court rolls, contracts, accounts or writings, maps, plans and surveys, or copies thereof, and all other expenses (except the salaries or allowance to any Commissioners or Assistant-commissioner provided for as aforesaid) incurred in the settlement of any suit or difference, 35 or in the hearing or determining any objection, valuation, schedule or apportionment before the said Commissioners or Assistant-commissioner, to be paid by such parties interested in the production thereof respectively, or in the event of such suit, difference or objection, and to such person or persons, and in such proportions as the Commis- 40 sioners or Assistant-commissioner may think fit and reasonable.

54. General Expenses.

And be it Enacted, That the expenses of valuations, and other expenses necessary in the making any enfranchisement as aforesaid, **except**

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except when otherwise provided by this Act, shall be paid by the tenants, or by the tenants and lords, in such proportions as the Commissioners shall in the confirmed apportionment, or otherwise, under their hands and seal direct; and that if any difference shall arise touching the amount of the said expenses, or the share thereof to be paid by or to any person, it shall be lawful for the Commissioners or Assistant-commissioner to certify under their or his hands or hand the amount to be paid by or to such person; and in case any person shall refuse or neglect to pay the amount so certified or specified in such 10 apportionment, to be payable from him immediately after notice thereof, then upon production of such certificate or of either of the deposited copies under seal of the said apportionment before two of Her Majesty's Justices of the Peace for the county, riding, division or jurisdiction wherein the manor to which the same relates, or the 15 greater part thereof in value as appearing in such apportionment, is situate; and on proof of such refusal or neglect, such Justices are hereby authorized and empowered by warrant under their hands and seals to cause the same, and the costs of application and distress, to be levied by distress and sale of the goods of the person liable to 20 pay the same, and to render the surplus (if any), after deducting the costs of distress and sale, to the person distrained upon.

> 55. Action for Expenses.

And be it Enacted, That if such expenses shall not be levied under the said distress within Two Months after the said warrant shall 25 be granted, it shall be lawful for the person entitled to the said expenses (if the same shall with the costs of application to such Justices amount to Forty Shillings or upwards), and his executors or administrators, to recover the same expenses and costs, with full costs of suit in an action of debt in any of Her Majesty's courts of law at Westminster against the party named in such warrant and certificate or apportionment as aforesaid, his executors or administrators; in which action such certificate or deposited copy of apportionment shall be satisfactory evidence of the amount of such expenses so awarded by the said Commissioners or Assistant-commissioner, and 35 of the same being due for and to the parties therein named; and the certificate of such Justices under their hands on such warrant shall in like manner be evidence of the amount of costs of such application; and the production of such warrant (which in all such cases shall be allowed, and such certificate given by such Justices,) shall be satis-40 factory evidence of the non-recovery of such expenses and costs respectively under a distress.

And be it Enacted, That every tenant being a trustee, or not beneficially interested in the lands of which he stands admitted tenant, to be affected by any enfranchisement under this Act (save as against an unadmitted mortgagee), shall be entitled to recover in like manner by 81.

56. Expenses of trustees. distress or action respectively all expenses, costs and charges which he may have to pay under or by reason of any such certificate, apportionment, distress or action from the person beneficially interested at the date of such apportionment in the said lands, his executors, administrators or assigns, or by a like distress on the said lands, and the occupier whereof shall be entitled to deduct any such payments out of any rent then or subsequently due; and should any dispute arise as to any trusteeship or right to such recovery, the same shall be determined by the Commissioners or Assistant-commissioner in like manner as is hereinbefore provided with respect to other causes of dispute or difference arising under this Act, and their or his certificate shall be deemed satisfactory evidence of the facts therein stated, and the like evidence shall be produced before such Justices or in such action as is hereinbefore provided in other cases of distress.

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57.
Copyholders
having limited
interests may
charge costs
in certain
cases.

And be it Enacted, That any tenant having a limited interest, and who shall pay any such expenses or costs, may with the consent of the Commissioners under their hands, and by a simple entry on the court rolls of the manor, (and for which entry the steward shall only charge Thirteen Shillings and Sixpence, and which shall not be subject to any stamp duty) to charge such expenses and costs, with interest thereon, at the rate of Four Pounds per centum per annum on the copyhold lands to which the same shall relate; but so nevertheless that the principal charge on such lands shall be lessened in every year following such charge, by One-twentieth part at least of such original charge thereon, and shall be subject to previous mortgages.

58. Expenses payable by Lords of Manors.

And be it Enacted, That the costs payable by Lords of Manors having particular interests, or being trustees, shall with the expenses they may reasonably incur in employing agents to protect their interests or otherwise, (the amount of such expenses being subject to the approval of the Commissioners or an Assistant-commissioner) be paid out of the first monies to be received out of the enfranchisements to be effected under this Act.

59. Lands to be charged with enfranchisement considerations as on Mortgage in fee.

And be it Enacted, That from and immediately after the date of the final confirmation of the apportionment, the several and respective lands shall stand charged and chargeable with the respective sums 35 mentioned in such apportionment to be payable to the lord and steward or other officers respectively, with lawful interest for the same, from the day mentioned in the said apportionment until payment thereof respectively; and until such respective payment or payments, the person or persons for the time being seised of the manor, shall 40 be deemed to stand seised of the said lands as mortgagee in fee thereof, for the benefit of the lords, as to the sums payable to the em, and of the said steward, or other officers, as to the sums payable to

him or them, and at the option of the tenant, subject to the power of continuing the charge as hereinafter provided, and that it shall and may be lawful for the person so seised, or the lords or stewards respectively, in his name from time to time to adopt such means and proceedings as a mortgagee in fee of freehold lands is entitled to for the enforcing payment of such principal sums and interest, with the like right to obtain payment of all attendant and incident costs and expenses; and the lord shall have power to distrain on the lands in respect of which the said sum or sums shall be payable for 10 the purpose of recovering payment of the interest that shall be due thereon, as fully and in like manner as if the same had been rent in arrear.

> 60. To be first

And be it Enacted, That every such sum by this Act charged on any lands shall be a first charge on such lands, and shall have 15 priority over all mortgages, charges and incumbrances whatsoever affecting such lands, notwithstanding such mortgages, charges and incumbrances shall have been or shall be respectively made and created before such sums respectively shall be charged on such lands.

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And be it Enacted, That it shall be lawful for any tenant whose Power to lands shall be enfranchised under this Act, to charge the same (or any of them, provided he shall hold the whole thereof under the same right and the same estate) with the payment of such sums as aforesaid (and the costs of such charges), and lawful interest thereon respectively, 25 to any person who shall advance and lend such sums on the security of the lands so to be charged, and his executors, administrators and assigns; and for securing the payment thereof with such interest, to demise the said lands by way of mortgage, for any term of years, to the person who shall lend such sums, his executors, administrators and assigns, or to such other person as he or they shall appoint, so as such demise be made with a proviso or condition declaring that such term shall be void, on payment of the amount thereby secured, with interest thereon, at a time to be therein appointed; and such charge shall have the like priority with the original charge under this Act, and with the powers and rights to which a first mortgagee would as mortgagee by demise be entitled.

And be it Enacted, That for the purpose of freeing other tenants from the inconvenience to which in certain cases they might be subjected, by an immediate liability to payment of the sums to be awarded sideration for 40 to the lord of the manor under this Act, it shall be lawful for such ment. tenant, at any reasonable time, before final apportionment as aforesaid, (to be fixed by the Commissioners, and in default of their fixing any other limit at any other time, or until within Ten Days next previous

62. Power to defer pay-ment of conenfranchise· to such apportionment), to declare by notice under his hand, to be delivered to the lord or steward as hereinbefore provided with respect to other notices, his desire that such compensation-money should remain a charge on the lands affected thereby, for any number of years not exceeding Fourteen Years, or as a tenant for life for the whole period of his life and one year longer, and which notice the steward shall forthwith or with the said schedule of apportionment send to the said Commissioners, and thereupon the said Commissioners shall insert, in a column of such apportionment, to be appropriated to such purpose, the number of years or period for which such charge is to be continued, and thereupon (subject as after mentioned) no proceedings shall be instituted during such time or period to enforce payment of the principal money so apportioned: Provided nevertheless, That lawful interest thereon shall be payable and paid half-yearly on the days to be mentioned in such apportionment, or if not mentioned, there at the expiration of each half-year, computed from the date thereof and nothing herein contained shall extend to protect any tenant or other person from such proceedings, in case interest for One Year and a half shall remain due on the principal sum apportioned or awarded, or on any part thereof, to the amount of one-half: Provided also, That during the term or period so fixed, the lords shall not be compellable to receive payment of the principal money without receiving Twelve calendar Months' notice of the intention to pay off the same; and that in case the interest on such principal sum, or any part thereof, shall at any time be in arrear or unpaid for Thirty Days after any half-yearly payment shall be due as aforesaid, it shall be lawful for the lord or party entitled for the time being to receive such interest money, to levy the same by distress and sale of the goods on the lands and tenants enfranchised and affected by such enfranchisement, or any of them, as fully and in like manner as if the same had been rent in arrear, and subject to recovery by distress.

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63. To whom monies for enfranchisement from Lords' rights to be paid. Money paid for enfranchisement amounting to £. 200, in certain cases to be paid into the Bank of England under the 1 Geo. 4, c. 35.

And be it Enacted, That all monies to be paid under this Act for enfranchisement from the lord's right shall be paid to the lord of the manor, his heirs or assigns, where he shall be absolute owner of the manor, and where such lord for the time being shall be only entitled for a limited estate or interest therein, or shall be under any legal 35 disability, such money shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed, be paid into the Bank of England in the name and with the privity of the Accountant-General of the Court of Exchequer, to be placed to his account there "ex parte The Copyhold Enfranchisement Act passed in the first year of the reign of his late Majesty King George the Fourth, intituled, "An Act for better securing Monies and Expenses paid into the Court of Exchequer at Westminster on account

of the Suitors of the said Court, and for other purposes, and the general Orders of the said Court," and without fee or reward; and shall, when so paid in, therein remain until the same shall, by order of the said Court, made in a summary way, upon petition to be presented to the said Court by the person or persons who would have 5 been entitled to the rents and profits of the said manor had no such enfranchisement been made as aforesaid, be applied in the purchase of a redemption of the land tax, or in or towards the discharge of any debt or other incumbrance affecting the said manor, or 10 affecting other lands standing settled therewith, to the same or the like uses, trusts, intents or purposes; as the said Court of Exchequer shall authorize to be purchased or paid, or such part thereof as shall be necessary, or until the same shall upon the like application be laid out by order of the said court, made in a summary way as afore-15 said, in the purchase of lands which shall be conveyed, limited and settled to, for and upon such and the like uses, trusts, intents and purposes as the said manor or such of them as at the time of making such conveyance and settlement shall be existing, undetermined and capable of taking effect; and in the meantime and until such pur-29 chase can be made, the same money may, by order of the said court, upon application thereto, be invested by the said Accountant-General in his name in the purchase of Three Pounds per centum Consolidated Bank Annuities, or Three Pounds per centum Reduced Bank Annuities, or in Government or real securities; and in the mean-25 time and until such annuities or securities shall be ordered by the said court to be sold for the purposes aforesaid, or shall be called in or cancelled, the dividends or interest, and annual produce thereof, shall from time to time, by order of the said court, be paid to the person or persons who would for the time being have been entitled to 30 the rents and profits of the said manor, had no enfranchisement been made as aforesaid.

Provided always, and be it Enacted, That if any money to be When less be paid for the enfranchisement from the lord's rights shall be less than the sum of Two hundred Pounds and shall exceed the sum of Twenty Pounds, then the same shall at the option of the respective parties for the time being entitled to the said manor, the right of which shall be enfranchised, or of their respective husbands, guardians or committees in case of coverture, infancy, idiotcy, lunacy or other incapacity, be paid into the Bank of England in the name and with the privity of the said Accountant-General, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same may be paid at the like option to two trustees to be nominated by the respective parties exercising such option; and such nomination and approbation to be signified in writing under the hands of the nominating parties; and the money so paid to 81.

64. than £. 200. such trustees, and the dividends and produce so arising therefrom, shall be by such trustees applied in like manner as is hereinbefore directed with respect to the money to be paid into the Bank of England in the name of the Accountant-General of the Court of Exchequer.

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continue

65. When not above £. 20.

Provided also, and be it further Enacted, That when any money so to be paid as last hereinbefore mentioned shall not exceed the sum of Twenty Pounds, the same shall be paid to the respective parties for the time being entitled to the said manor, for his own use and benefit, or in case of coverture, infancy, idiotcy, lunacy or other incapacity, then such money shall be paid for their use to their respective husbands, guardians, committees or trustees.

66. Payment to Steward.

And be it Enacted, That all sums payable under this Act for compensation to the steward, shall be paid to him, his executors or administrators.

67. Receipts to discharge, &c.

And be it Enacted, That the receipts of the persons to whom any sums of money shall be paid pursuant to this Act, shall be sufficient discharges for the same, and the person making such payment shall not be liable to see to the application of any such sums, or be answerable for the misapplication or non-application thereof; and for the better evidencing such payment, the steward for the said manor for the time being, shall, as to steward's compensation, forthwith after payment thereof, and as to the payments for enfranchisement from the lord's rights, forthwith after production of receipt for the same, signed by the party entitled to sign the same, enter on the copy apportionment, to be deposited with him as aforesaid, a memorandum of such payment, and which memorandum shall, in like manner as such receipt, be deemed sufficient evidence of such payment, and discharge the lands, and the person paying the same, from the sums mentioned to be paid.

68.

Lands to hecome freehold, subject, &c.

And be it Enacted, That from and after such final confirmation of the apportionment, the several lands therein comprised and enfranchised shall, subject to the payment of the enfranchisement consideration in favour of the lords and steward, or other officer as aforesaid, become and be of freehold tenure, and all mortgages affecting the 35 same shall be deemed and become mortgages in fee of the same lands (if such enfranchisement consideration shall be paid off); and if not so paid off, mortgages in fee of the equity of redemption the crof, subject to such mortgage interest as aforesaid for securing such consideration: Provided always, That nothing herein contained shall 40 operate to deprive any tenant of any commonable right to which he may be entitled in respect of such lands; but such right shall

Commonable Rights to remain.

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continue attached thereto, notwithstanding the same shall become freehold.

And be it Enacted, That nothing in this Act contained shall operate Other rights to affect any rights of lords of manors to escheats, fairs, markets, appointments, franchises, royalties, rights, liberties and privileges of chase and free warren, hunting, hawking, fowling, and of chasing and killing game and beasts of chase and free warren, and all ancient piscaries, fisheries and rights of fishing, or any rights in mines and minerals within or under the said lands and hereditaments, unless expressly commuted under this Act, and save that all persons whose lands shall remain subject to manorial rights in mines and minerals, shall have full right and liberty to dig for, raise and get in or upon their respective lands, any stones, lime, clay, brick, earth, turf or peat to and for his and their own absolute use and benefit.

of Lords not to be affected.

And be it Enacted, That all lands which shall be enfranchised 15 under this Act shall be deemed to be held under the same title, up to the time of such enfranchisement, and shall not be subject to any estates, rights, titles, interests, incumbrances, claims or demands affecting the manor of which the same were holden.

70. Substituted

And be it Enacted That for the purpose of enabling the lords and tenants of manors to effect enfranchisements, either general or partial, with less expense and delay than may be caused by the proceedings hereinbefore directed, it shall be lawful for the lord of any manor, whatever may be his interest therein, with the consent of the Commissioners under this Act, at any time or times before such agreement for enfranchisement as aforesaid shall be entered into, to enfranchise all or any of the lands holden of his manor, in consideration of such a sum or sums of money, whether payable forthwith, or at a future time, as shall be agreed to be paid by the tenant or tenants whose lands are 30' to be enfranchised; and it shall be lawful for any tenant, whatever may be his interest, with the like consent of the Commissioners under this Act, to accept such enfranchisement on the terms so agreed on; and whenever so many as Twelve Persons being tenants, or all the tenants of any manor, shall at the same time agree with the lord for the enfranchisement of their lands, then it shall be lawful to effect such enfranchisement by a schedule of apportionment to be confirmed and sealed by the Commissioners under this Act, and all the provisions hereinbefore contained for carrying into execution an apportionment made by valuers, pursuant to a voluntary agreement as aforesaid, and for the enfranchisement of all the lands holden of a manor, shall be applicable to the case of an enfranchisement between the lord and such number of his tenants as aforesaid, save that the Commissioners shall not make any alterations or amendments in such

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81.

Lords and enfranchise before agree-ment under

schedule

schedule or the terms of such enfranchisement without the consent of the parties interested therein: Provided always, That whenever the estate of any party to such enfranchisement shall be less than an estate of fee-simple in possession, or corresponding copyhold or customary estate, notice in writing shall be given by or on behalf of such party to the person next entitled in remainder or reversion to the manor or land to be affected by such enfranchisement, so that the assent or dissent, or acquiescence of such person entitled in remainder or reversion, may be stated in writing to the Commissioners when such a schedule of apportionment as aforesaid shall be sent to them, 10 but the Commissioners shall notwithstanding cause such further notices to be given and such other inquiries to be made as they shall deem fit before confirming such apportionment.

72. How such Enfranchisement may be effected.

And be it Enacted, That if such agreement for enfranchisement as last-mentioned shall not be entered into by all the tenants of the manor, 15 or their number shall be less than Twelve, or whatever may be the number, if the parties shall think fit, an enfranchisement may be effected, with the consent of the said Commissioners, by such conveyance, deed or assurance as would or might be adopted for effecting such enfranchisement if the lord were seised of the manor for an 20 absolute estate of inheritance in fee simple in possession, and in such case the sum or sums to be paid for enfranchisement shall be paid and applied in like manner as is hereinbefore provided with respect to consideration monies for other enfranchisements under this Act, and with the like provisions for discharge after receipt given for the same, 25 and for substitution of title, retention of rights and otherwise as hereinbefore provided.

73. Penalties

And be it Enacted, That any person who shall refuse or neglect to make any return, or to allow any inspection of poor's rates, or of any other documents, writings or papers of which inspection is required 30 under this Act, or who shall wilfully make any false return or statement not required on oath, or who shall refuse or neglect to attend and give evidence, and answer such question or questions to which answers shall be required by the Commissioners or Assistant-commissioner, for the purposes of this Act, shall (except in cases hereinbefore otherwise provided for) forfeit and pay such sum of money for each such refusal, neglect or false return or statement, not exceeding the sum of Five Pounds, as such Commissioners or Assistant-commissioner shall by writing under their or his hands or hand order and direct, and to be recovered with costs by distress in the manner hereinbefore 40 mentioned; and all monies to be received under any such distress shall be paid to such person as such Commissioners or Assistant-commissioner shall in each case direct, and be applied towards the costs attending the enfranchisement in relation to which such refusal, neglect or false staetment shall arise.

And

ments, Contracts and Awards not to be liable to Stamp Duties.

And be it Enacted, That no advertisement inserted by direction of the Advertise Commissioners, or any Assistant commissioner, or by any tenant, in the London Gazette, or in any newspaper, for the purpose of carrying into effect any provision of this Act, and no agreement, award or power of attorney made or confirmed or used under this Act, shall be chargeable with any stamp duty.

> 75. Correspon-dence of Commissioners relating to this Act, to be free of postage.

And be it Enacted, That the said Commissioners may receive and send by the General Post, from and to places in England and Wales, all letters and packets relating exclusively to the execution of this Act, free from the duty of postage, provided that such letters and packets as shall be sent to the said Commissioners be directed to the "Copyhold Enfranchisement Commissioners" at their office in London, and that all such letters and packets as shall be sent by the said Commissioners shall be in covers, with the words "Copyhold Enfranchisement Commissioners" printed on the same, and be signed on the outside thereof under such words with the name of such person, in his own hand-writing, as the said Commissioners, with the consent of the Lords Commissioners of the Treasury, or any Three or more of them, shall appoint (such name to be from time to time sent to the Secretary of the 20 General Post-office in London,) and be sealed with the seal of the said Commissioners, and under such other regulations as the said Lords Commissioners, or any Three or more of them, shall think fit; and if the person so to be appointed shall subscribe or seal any letter or packet whatever except such only concerning which he shall receive 25 the special direction of his superior officer, or which he shall himself know to relate exclusively to the execution of this Act, or if the person so to be appointed or any other person shall send or cause to be sent under any such cover any letter, paper or writing, or any enclosure, other than shall relate exclusively to the execution of this 30 Act, every person so offending shall forfeit and pay the sum of One hundred Pounds, and be dismissed from his office; one moiety of such penalty shall be paid to the use of Her Majesty, Her heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same; and every such penalty may be sued 35 for and recovered in any of Her Majesty's Courts of Record in Westminster.

And be it Enacted, That if any person under the provisions of this Act shall wilfully give false evidence, he shall be deemed guilty of Perjury. Perjury; and if any person shall make or subscribe a false affidavit or declaration for the purposes of this Act, he shall suffer the penalties of Perjury; and if any person shall wilfully refuse to attend in obedience to any lawful summons of any Commissioner or Assistantcommissioner, or to give evidence, or shall wilfully alter, withhold, 81. destroy

76. False evidence to be deemed

Withholding evidence a Misdemendestroy or refuse to produce any book, deed, contract, agreement, account or writing, terrier, map, plan or survey, or any copy of the same, which may be lawfully required to be produced before the said Commissioners or Assistant-commissioner, he shall be deemed guilty of a Misdemeanor.

77. Limitation of Actions against Commissioners, Assistantcommissionors, Justices,

And be it Enacted, That no action or suit shall be commenced against any Commissioner, Assistant-commissioner, Justice of the Peace. valuer, umpire or surveyor for any thing done under the authority of this Act, until Twenty-one Days' notice thereof shall have been given in writing to the party against whom such action or suit is 10 intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after Three calendar Months shall have expired from the commission of the act for which such action or suit shall be so brought; and every such action shall be brought, laid and tried in the county or place where the cause 15 of action shall have arisen, and not in any other county or place; and if it shall appear that such notice of action or suit was brought before Twenty-one Days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited 20 in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the jury shall find a verdict for the defendant therein, or the court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and if a verdict shall be found for such defendant, or such suit shall be 25 dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit or suffer a discontinuance of such action, or if upon any demurrer in such action or suit, judgment shall be given for the defendant therein, then such defendant shall have costs, charges and expenses as between attorney and client.

78. Proceedings ander this Act not to be quashed for want of form, nor to be removed by certiorari.

And be it Enacted, That no order, adjudication or proceeding made or had by or before the Commissioners or any Assistant-commissioner under the authority of this Act, or any proceeding to be had touching any offender against this Act shall be quashed for want of form, or be removed or removable by certiorari or any other writ 35 or process into any of Her Majesty's Courts of Record at Westminster or elsewhere.

79. Limits of Act.

And be it Enacted, That this Act shall extend only to England and Wales.

80. Act may be altered this Session.

And be it further Enacted, That this Act may be amended, 40 or repealed by any Act to be passed in this present Session of Parliament.

And

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81.
Interpretation Clause.

And be it Enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "manor" shall extend to a manor or reputed manor, of whatever tenure the same may be; the words "lord" and "steward" shall include the person or persons for the time being filling those respective characters, or acting in those respective capacities, whether those persons shall be rightfully or lawfully entitled to fill such characters, or act in such capacities, or not; the words "tenant" or "tenants" shall comprise all persons 10 holding by copy of court roll, or as customary tenants, or holding lands subject to any manorial rights, and whether holden to them and their heirs, or for life, or in any other manner whatsoever; the words "land" or "lands" shall extend to and comprise lands holden by copy of court roll, or by custom of any manor, whether in fee 15 or for life or lives, or renewable in any way whatsoever, and shall also comprise all lands holden of a manor subject to any manorial rights and the like estates therein, and shall extend to messuages, tenements and hereditaments, whether corporeal or incorporeal, or any undivided part or share therein; the word "enfranchisement" shall mean and 20 include the commutation or discharge of all lands holden of a manor from heriots or any other manorial right; the word "person" shall mean and include The Queen's Majesty, and any body politic or corporate or collegiate, as well as an individual; and every word importing the singular number only shall mean and include several 25 persons or parties, as well as one person or party, and several things as well as one thing, respectively, and the converse; and every word importing the masculine gender only shall mean and include a female as well as a male.

Copyholds Enfranchisement.

BILL

For the Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights.

. James Stewart, Mr. Attorney-Gener.
and Mr. Freshfield.)

Ordered, by The House of Commons, to be Printed,
4 March 1839-

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ANALYSIS

BILL for the Enfranchisement of Lands of Copyhold and CUSTOMARY TENURE, and other LANDS subject to MANORIAL RIGHTS.

Preamble, and Appointment of Commissioners.

- 1. After reciting that it is expedient to provide for the gradual and entire enfranchisement of lands of copyhold and customary tenure, and other lands subject to manorial rights, on such a basis as shall be equitable towards the interest of all parties affected; it is enacted, That "the Tithe Commissioners for England and Wales" for the time being, shall be the Commissioners for carrying the Act into execution; and that should the Act not be carried into execution before Tithe Commissioners cease to act, or if they shall decline to act, other Commissioners may be appointed, &c., with power to supply vacancies.
- 2. Style of Commissioners, Seal, &c. Enacts that the Commissioners shall be styled "The Copyhold Enfranchisement Commissioners," and shall have their office and seal, and that instruments sealed are to be received in evidence, &c.
- 3. Report to Secretary of State, &c. Commissioners to report to Secretary of State, and annual Report to be laid before Parliament.
- 4. Assistant-commissioners, &c. Power to appoint and remove Assistant-commissioners, Secretary, &c.
- 5. No Commissioners to sit in House of Commons.
- 6. Operation of Act limited to Ten years.
- 7. Salaries and Allowances of Commissioners.
- 8. To be paid out of Consolidated Fund.
- Commissioners and Assistant-commissioners to make declaration before acting.
- 10. Commissioners may delegate Powers.
- ▲11. Manors and Lands vested in Crown.

Provision is made for cases in which manors or lands are vested in the Crown generally or in right of Duchies of Lancaster or Cornwall.

- 12. Disabilities of lords or tenants provided for.
- 13. Power to appoint Attorney.

An attorney may be appointed, and at the first meeting the power or a copy shall be delivered to the chairman.

14. Power to call a Meeting, &c.

Any one or more of the lords or tenants whose interest shall not be less than one-fourth of annual value of manor or lands, may call a meeting of the lords and tenants (by notice to be affixed Twenty-one Days before the meeting on principal outer door of church of parish within the limits of which the manor or greater part in value extends, or on door or conspicuous part of some house or building where courts usually held, and twice advertized in some newspaper, or once in each of

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two newspapers generally circulated in the county,) for the purpose of making an agreement for the general enfranchisement of lands holden of such manor; and every lord or tenant present at such meeting shall bear his own expense of attendance; and the lords and tenants present at such meeting whose interest in the manor and lands shall not be less than a majority of the tenants in number, and whose interest in the manor and lands shall not be less than two-thirds of the annual value thereof, may proceed to make and execute an agreement for enfranchisement of the lands holden of the manor, and discharge thereof from all manorial rights, to which the lands are subject; and if so expressly agreed between such lords and tenants, the enfranchisement may be made to extend to rights in mines and minerals, but otherwise shall not extend to affect such rights.

15. Terms on which Agreement may be made.

Such agreement may be entered into for enfranchisement from the lord's rights on payment to him of a sum certain for such entire enfranchisement, or a sum certain for enfranchisement from fines, a sum certain for all heriots, a sum certain for a certain number of years' purchase for quit and other rents, a sum certain for rights in timber and other manorial rights as aforesaid; or such sums for enfranchisement may be subject to diminution or increase to such an amount per centum as shall be agreed on; and such agreement may fix the amount of the steward's fees that may be awarded by the Commissioners; every agreement for any species of manorial right shall require concurrence of two-thirds in a majority in number and two-thirds in interest of persons affected.

- 16. A provisional Agreement may be made.
- 17. Proportional interest how to be computed.
- 18. Power to adjourn meetings, but notice of adjournment to be once advertized.
- 19. Agreement to bear date the day on which first signature attached to same, or minutes thereof, and to be in such form as the Commissioners shall from time to time direct.
- 20. Commissioners to frame and circulate forms.
- 21. Commissioners or Assistant-commissioners may attend meetings, and advise terms of agreement.
- 22. Suits and differences may be referred to arbritration.
- 23. Commissioners to require consents of Ecclesiastical Corporations, or other bodies, whose interests appear to be affected, to be obtained by agreement.
- 24. Agreement to be confirmed by Commissioners.

25. Appointment of valuers.

At meeting or adjourned meeting, valuers to be appointed to ascertain annual value of lands to be enfranchised, as follows, (i. e.) if enfranchisement is in consideration of aggregate fixed sum payable to the lord, the tenants to appoint; and if majority in number and value do not agree, then two or other even number to be appointed, half by number and half by value; and when enfranchisement not in consideration of fixed sum, half the valuers to be appointed by the lord, and half by the tenants.

- 26. Valuers to apply to the Commissioner for instructions, and are then to proceed to ascertain value of lands, and make out and send to office of Commissioners such valuation, with power to appoint umpires.
- 27. Power to enter lands, &c. Valuers and umpires to make declaration before acting.
- 28. Steward to furnish information, for the purpose of enabling valuers to make valuation, and otherwise to facilitate enfranchisements under the Act; the steward shall, on request by valuers or chairman of meeting, make a correct statement in writing of—

The tenants on the manor:

Description of their lands:
The amount of assessment to poor rate:

Amount received for heriots in respect of each tenant, for three times previous:
And any other information which the Commissioners shall direct:

Shall produce same for inspection at the meetings, and allow extracts to be taken, and upon request by valuers, deliver to them a copy of such schedule, or the parts which they may require for such statements and extracts; the steward to receive such sum as shall be agreed on, and Four-pence for Seventy-two words, for copies or extracts.

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The steward shall also within Three calendar Months, or such time as the Commissioners shall fix, make out and send to them a Schedule of-

The names of the several tenants of the manor:

To which class belonging:

Their residences:

Their descriptions:

Their ages, as nearly as he can ascertain the same:

When more than one tenant, whether admitted as joint tenants, or how

The description of the lands:

Whether copyhold, customaryhold, subject to fines for customary freehold:

In what parish situated:

To what amount assessed, or assumed proportion if rated, with other lands [as in previous Schedule]:

Amount of quit or free rents:

Whether held at fines arbitrary on death and alienation; at fines certain, or how otherwise:

Whether subject to heriots, and how:

Amount received for each of three last heriots for each tenement:

Whether subject to rights in timber, and what: a number to each tenement: The number of changes of tenants on each tenement, subject to fines payable on death or alienation during the last Seventy, or such other number of years as fixed on]:

The number of changes of tenants during the like period, on each tenement,

subject to fines on death only:

And add such other information as Commissioners may direct; and insert at the foot of such Schedule, the amount of his claim for compensation, and the grounds upon which the same is computed.

Power to make inquiries by post as to ages of tenants, and enactment that tenant refusing to give information shall not afterwards be allowed to object to age stated, and penalty on giving untrue statement.

Steward to give from time to time such other information to Commissioners as they may require, with penalty on default.

- 29. Valuers to take particular circumstances of each case into consideration.
- 30. Schedules of Valuation to be deposited for inspection, and Meeting to determine objections.

Copies of Schedules by valuers to be lodged with steward for inspection by all interested parties, without charge, and notice to be given as Commissioners may direct, with penalty on disallowing inspection.

Notice to fix time for hearing objections, and at such meetings objections to be heard and determined by Assistant-commissioner, with power to adjourn when requisite, and direct any further valuation, &c. to be made.

No person to be allowed to object without giving five days' notice of intention to object; such notice to be left with steward, and inspected by other parties with Schedules; forms of notices to be supplied to steward, and by him delivered to party applying.

After hearing and determining objections, Assistant-commissioner to amend Schedules, and power to him or Commissioners to amend such valuations or Schedule as to alterations by deaths, change in ages, &c., on satisfactory proof by affidavit or otherwise that such alterations are requisite.

- 31. Expenses of proceedings under the Act, (except where from special circumstances the Commissioners shall direct otherwise) shall be payable as follows; where the valuers shall be appointed by the tenants, the costs of valuation and Schedules shall be paid by the tenants rateably according to their interest; but where the valuers shall be appointed by the lord and tenants, then if only Two appointed, the lord shall pay one-half and the tenants one-half; and where more than Two shall be appointed the lord shall pay one-third and the tenants two-thirds; and shall be appointed, the lord shall pay one-third and the tenants two-thirds; and in case of dispute as to costs the Commissioners shall have power to decide the same.
- Schedule to be made by the Commissioners. Forthwith after receipt of the Schedules 32. settled and amended, the Commissioners shall either agree to apportionment made . 122



SECT.

by valuers, or cause a schedule to be made of the apportionment to be made of the sums to be paid by each tenant, taking all the circumstances of each case into consideration.

33. Schedule of Apportionment to be inspected; Errors pointed out and rectified, and then confirmed.

The Commissioners shall forthwith after making such schedule, cause a copy to be deposited with the steward for inspection by all parties interested: notice is to be given of such deposit, and steward to allow inspection under a penalty for default; parties interested may give notice of any errors to the steward, who must send them with the copy apportionment to the Commissioners, at the expiration of the time appointed for inspection; the Commissioners shall then inquire into and rectify such errors, and cause the apportionment to be engrossed, and annex any Plans or Schedules thereto required for elucidation thereof, and confirm the same under their hands and seals.

34. Copies of confirmed Apportionment to be deposited with Steward and Clerk of the Peace.

Two copies of every confirmed apportionment, with documents annexed, to be made and sealed by the Commissioners; one copy to be deposited with the Steward, and kept with the Court Rolls, and the other with the Clerk of the Peace for the county or jurisdiction within which the manor or greater part in value, computed as aforesaid, shall be situated, to be kept by him and his successors; and all persons interested therein may have access to the said copies respectively, and have copies or extracts thereof on giving reasonable notice and paying Two shillings and sixpence for each inspection, and Three-pence for every Seventy-two words in such copies or extracts: the statements in such apportionment, &c., to be received as cvidence, and deposit to be notified by advertisement as Commissioners may direct.

35. Notice to Parties.

The Commissioners before confirming any agreement, valuation, assessment, schedule or apportionment, may require notice thereof to be given in such manner as they shall direct, to the person next in remainder, reversion or expectancy of an estate of inheritance in any manor or lands, or any other person to whom they may think notice ought to be given, and by themselves or Assistant-commissioners hear and determine any objection made to such confirmation by any person so interested, and may direct any amendment accordingly.

- 36. Commissioners may correct Errors with consent.
- 37. Lord, and a majority of tenants in number, and two-thirds in value, may request that this Act shall not apply to them.
- 38. Compulsory Enfranchisement; Commissioners to ascertain value.

Power to Commissioners after 1st day of August 1842, by themselves or Assistant-commissioners, to ascertain value of enfranchisement where no agreement, with power to defer doing so, where proceedings commenced.

39. Commissioners to require information from Steward.

The Commissioners may require the steward, or lord, where no steward, to furnish them with a Schedule as or to the effect before required to be furnished in the case of voluntary enfranchisements for the purpose of apportionment, and which shall contain a statement of the steward's claim for compensation, and such further information relative to the manor as Commissioners shall require, with like powers in obtaining information, &c.; and a duplicate of such Schedule shall be kept for inspection as Commissioners shall direct; and the Commissioners shall furnish steward with forms of notice of objection, to be delivered to party applying for same

40 Notice of Inspection; Meeting to hear objections and appoint Valuers, &c.

Forthwith after receipt of Schedule and information, the Commissioners are to cause notice of duplicate remaining for inspection, and shall appoint a meeting for hearing objections to the Schedule by any persons interested, giving Five days' notice to steward, and to appoint valuers; the Commissioners or Assistant-commissioners shall at such meeting hear and determine objections or adjourn meeting, and then hear objections and amend Schedule accordingly, and according to deaths, &c., happening since making out the Schedule and determine a mount of compensation to steward; and valuers are to be appointed as at voluntary meetings,

SECT.

meetings, when one-half in number to be appointed by the lord and the other half by the tenants; and which valuers or their umpires are to be appointed as in voluntary enfranchisements, shall make the like declaration and act in like manner and with the like powers, &c., as if appointed under voluntary enfranchisements.

41. Power to Commissioners to appoint Valuers and Umpires.

If within Six months after first meeting, to appoint valuers in compulsory enfranchisements, or if like period from confirmation of voluntary agreement, no valuers shall have been appointed, or valuation not made and sent to the Commissioners, the Commissioners may appoint valuers.

42. Inspection of Schedules, Objections, &c.

A copy of the Schedules of valuers to be deposited with steward for inspection, as in cases of voluntary enfranchisement; notice to be given of such deposit and proceedings for hearing objections and making amendments, as in case of voluntary enfranchisements, and to make amendments in steward's schedule, becoming requisite from deaths, &c.

- 43. Expenses. Like provisions as in voluntary enfranchisements (see sect. 32.)
- 44. Apportionment. The Commissioners to make apportionment, cause Schedule to be deposited for inspection, and proceed to confirmation and deposit of copies with Clerk of Peace, as in voluntary enfranchisements.
- 45. Notice to interested Parties. Commissioners may have notice given to, and hear objections by parties entitled in reversion, and other interested parties, as in sect. 36.
- 46. Apportionment not to be questioned after confirmation, except with consent.
- 47. Commissioners may hear and determine disputes and settle Boundaries.

If any action or suit shall be depending touching the right to or amount of any fines, other manorial payments or incidents, or any question shall arise thereon, or as to the boundary of any lands holden of the manor, or precise situation of such lands as shall be intermixed with other lands, or the exact quantity of the lands so holden, or any difference shall arise whereby the proceedings to effect any enfranchisement, whether voluntary or compulsory as aforesaid, shall be hindered, the Commissioners or Assistant commissioner may appoint a time and place in or near the manor for hearing and determining the same, and inquire into, hear and determine such right or amount, or such question; and their or his decision shall be binding and conclusive on all persons to whom Twenty days' notice of the time, place and intent of such meeting shall have been given or left at his abode, or with the occupying tenant, with a penalty on the occupying tenant for omitting to send the notice to his landlord, or party for whom same left, and shall be liable to make good to such party all damage which he may sustain by such defaults.

48. Subject to appeal by issue at law, or on case stated. Appeal, &c. given where matter in dispute shall exceed the sum of Twenty Pounds

- 49. Proceedings not to abate by death of Parties.
- 50. In case of death, Actions to be brought, &c.
- 51. Statute of Limitations not to be affected. Nothing in Act contained to revive any right to fines or other manorial claims now or hereafter barred by any law in force for limitation of actions or suits.
- 52. Power to summon Witnesses, &c. Power to summon witnesses, call for returns, production of deeds, &c.
- 53. Expenses of Witnesses, &c. Commissioners or Assistant-commissioners may order expenses of witnesses and of production of books, deeds, court-rolls, &c., and all other expenses (except salaries or allowance to Commissioners or Assistant-commissioners) incurred in settlement of any suit or difference, or in hearing or determining any objections, &c., to be paid by such interested parties, and to such parties as they or he may think fit and reasonable.
- 54. General Expenses and Recovery. Expenses attending enfranchisements (except otherwise provided for) shall be paid as Commissioners may in apportionment or otherwise under their hands and seals direct; and if any difference shall arise as 122.

to amount to be paid by or to any person, the Commissioners or Assistant-commissioner may, under their or his hand, certify amount; and in default of payment, the same may, on production of certificate, or of a deposited copy of apportionment, be recovered before Two Justices of Peace, by distress and sale, with costs of application and proceedings.

- distress granted, the person entitled (if amount including costs of distress shall equal Forty Shillings) his executors, &c. may recover same, with costs of suit, in ment, his executors, &c., in which action such certificate or apportion—shall be satisfactory evidence of the amount of such expenses, and of the same under their hands, which they are required to give in such cases, shall be satisfactory evidence of such expenses and costs under the distress.
- 56. Expenses of Trustees. Every tenant of the manor being a trustee (save as against an unadmitted mortgagee) shall be entitled to recover in like manner by distress or action respectively all expenses, costs and charges which he may have to pay under any such certificate, apportionment, distress or action, from the person beneficially like distress on the lands, and the occupiers thereof shall be entitled to deduct any such payments from any rent then or subsequently due; and should any dispute Commissioners or Assistant-commissioners, as in the case of causes of difference proceedings or action.
- Tenants having limited interests, may charge costs in certain cases.

 Tenants having limited interests may, with consent of Commissioners, by a simple entry on court-rolls, charge the lands with the costs and interest, the principal being however reduced One-twentieth each year; the steward to charge only Thirteen shillings and sixpence for such entry and copy, which is not to be liable to stamp.
- 68. Expenses payable by Lords of Manors. Expenses payable by lords having partial interests, or being trustees, shall with the expenses they may reasonably incur in employing agents to protect their interests or otherwise (the amount of such shall be paid out of the first monies to be received out of the enfranchisements to be effected under the Act.
- From and immediately after date of final confirmation of apportionment, the several and respective lands holden of the manor shall stand chargeable with the respective sums mentioned in the apportionment as payable to the lord and steward persons for the time being seised of the manor, shall be deemed to be seised of the said lands as mortgagee in fee thereof for the benefit of the lord as to the sums payable to him, and of the steward as to the sums payable to him; and that (subject to the power of continuing the charge at the option of the tenant as hereinafter provided,) name from time to time to adopt such means and proceedings as a mortgagee in fee and interest, and with the like right to obtain payment of all attendant and incident costs.
- 60. To be first Charges. Such sums shall be first charges, and have priority over all mort-gages, charges and incumbrances, &c.
- 61. Power to mortgage. Any tenant whose lands shall be enfranchised, may charge the same (or any of them, if he holds all under same right and for same estate), with payment of such sums and costs of such charge and lawful interest, to any person advancing same and his executors, administrators and assigns, and for securing payment thereof to demise lands by way of mortgage, for any term of years to such person, his executors, &c., or to such other person as he shall appoint; on payment of the amount thereby secured with interest at a time to be therein of first mortgagee.

62. Power

SECT.

122.

- 62. Power to tenants for life, and tenants whose lands are not of more than the annual value of 20 l., to defer payment of consideration for enfranchisement until the next event at which fine would be payable.
- 63. Power to Tenant to defer Payment of consideration for Enfranchisement. For purpose of freeing tenants of manors from the inconvenience to which, in certain cases, they might be subject, by an immediate liability to payment of the sums to be awarded to the lord of the manor under the Act, it shall be lawful for any tenant, at any reasonable time before final apportionment as aforesaid, (to be fixed by the Commissioners, or, in default of their fixing any limit, at any other time or until within Ten days next previous to such apportionment), to declare, by notice under his hand, to be delivered to the lord or steward, as in case of other notices, his desire that such compensation shall remain a charge on the lands affected thereby for any number of years not exceeding Fourteen, or as to tenants for lives for the whole period of his life, and one year longer; and which notices the said steward shall forthwith, or with the Schedule of apportionment, send to the Commissioners; and thereupon the said Commissioners shall insert in a column of the apportionment to be appropriated to that purpose, the number of years or period for which such charge is to be continued, and thereupon (subject as after mentioned) no proceedings shall be instituted during such term or period to enforce payment of the principal money so apportioned: Provided nevertheless, That lawful interest shall be payable and paid half-yearly on the days to be mentioned in such apportionment, or, if not mentioned therein, at the expiration of each half year, computed from the date thereof, and that such proceedings may be instituted, and nothing in the Act contained shall extend to protect any tenant or other person from such proceedings, in case One-and-a-half year's interest shall remain due on the said principal sum apportioned, or on any part thereof, to the extent of one-half: Provided also, That during the term or period so fixed, the lord shall not be compellable to receive payment of the principal money without receiving Twelve calendar months' notice of intention to pay off the same, and that in case the interest on such principal sum, or any part thereof, shall at any time or times be in arrear Thirty days, it shall be lawful for the lord or party for the time being entitled to receive such interest-money, to levy the same by distress and sale of the goods on the lands and tenements enfranchised and affected by such enfranchisement money, or any of them, in like manner as for rent in arrear and subject to recovery by distress.
- 64. To whom Monies for enfranchisement from Lord's Rights to be paid.

 Monies to be received for enfranchisement from lord's rights to be paid to lord, his heirs or assigns, when absolute owner, for limited estate or interest, or under legal disability, to be paid as follows: If it amounts to Two hundred Pounds, to be paid into the Bank of England, under the 1 Geo. 4, c. 35.
- 65. When less than Two hundred Pounds, and more than Twenty Pounds, to be paid into the Bank of England, or to trustees, at the option of the parties.
- 66. Where Twenty Pounds, to be paid to the person entitled to the rents and profits.
- 67. When payments are deferred by tenants, provision as to lords being tenants for life.
- 68. Payment to Steward. Sums payable to the steward for compensation to be paid to him, his executors or administrators.
- 69. Receipts to be Discharges. Receipts of persons to whom money directed to be paid to fully discharge person making payment; and, for better evidencing payment, the steward shall, as to his compensation, forthwith after payment, and as to payment for enfranchisement from lord's rights, forthwith after production of receipt for same, signed by the party entitled to sign the same, enter on the copy apportionment to be deposited with him as aforesaid, a memorandum of such payments; and such memorandum shall be sufficient evidence of such payments, and discharge lands and person paying from the sums therein mentioned to be paid.
- 70. Lunds to become Freehold, &c. From and after final confirmation of apportionment the lands therein comprised shall, subject to the payment of the enfranchisement, consideration in favour of lords and stewards as aforesaid, become and be of freehold tenure, and all mortgages affecting the same shall be deemed and become mortgages in fee of the same lands, if such enfranchisement consideration shall be paid off;

and if not so paid off, mortgages in fee of the equity of redemption thereof, subject to such mortgage estates respectively as aforesaid, for securing such consideration; provided that nothing in the Act contained shall operate to deprive any tenant of any commonable right to which he may be entitled in respect of such lands; but such right shall continue attached to such lands, notwithstanding the same shall become freehold.

- 71. Reservation of Lord's other rights. The Act not to affect rights of lords of manors to escheats, fairs, markets, appointments, franchises, royalties, rights of chase and in game, fisheries, &c., or any rights in mines or minerals, save that the person whose lands shall be enfranchised, his heirs, &c. shall have right to dig for, raise and get stones, lime, slate, clay, brick-earth, turf or peat.
- 72. Substituted Titles. The lands enfranchised shall be deemed to be held under the same title up to the time of enfranchisement as that under which the same were held at the time of the enfranchisement, and shall not be subject to any estates, rights, titles, interests, incumbrances, claims or demands affecting the manor of which the same were holden.
- 73. Power to Lords and Tenants to effect Enfranchisements independent of the Act.

 For the purpose of affording to the lords and tenants respectively the opportunity of obtaining an enfranchisement of their respective lands, free from any delay or expense under this Act, it shall be lawful for the lord and tenants of any manor (whatsoever may be their interest therein), with the consent of the Commissioners under this Act, at any time or times before such agreement for enfranchisement as aforesaid shall be entered into, to enfranchise any of the lands holden of the said manor, in consideration of a sum of money to be agreed on between them and the tenants affected, and certain facilities are given to such enfranchisements.
- 74. How such Enfranchisement may be effected.

 Every such enfranchisement shall be made by such conveyance, deed or assurance, as would be adopted for effecting such enfranchisement if the lords were seised of the manor for an absolute estate of inheritance in fee-simple in possession.
- 75. Agreements, Contracts and Awards not to be liable to Stamp Duties.

 No agreement, award or power of attorney made or confirmed or used under this Act, chargeable with any stamp duty.
- 76. Correspondence of Commissioners relating to this Act to be free of Postage.
- 77. False Evidence to be deemed Perjury. Withholding Evidence a Misdemeanor.
- 78. Limitation of Actions against Commissioners, Assistant-commissioners, Justices of the Peace, &c.
- 79. Proceedings under this Act not to be quashed for want of form, nor to be removed by Certiorari.
- 80. Limits of Act.
- 81. Act may be altered this Session.
- 82. Interpretation Clause. In construction of Act, unless something in subject or context, repugnant to such construction, the words after mentioned, or similar words, to extend to and be construed as herein provided; (that is to say)

The word "MANOR" shall extend to manor, or reputed manor, of whatsoever

tenure the same may be.

The words "LORD" and "STEWARD" shall include the person or persons for the time being filling those respective characters or acting in those respective capacities, whether those persons shall be lawfully or rightfully entitled to fill such characters, or act in such capacities or not.

characters, or act in such capacities or not.

The words "Tenant," or "Tenants," shall extend to and comprise persons holding by copy of court-roll, or as customary tenants, or holding lands subject to any manorial rights, and whether holding to them and their heirs or for life, or in any other manner whatsoever.

any other manner whatsoever.

The words "LAND," or LANDS," shall extend to and comprise all lands, of whatever tenure, holden of the manor, and whether the interests therein to be affected

SECT.

affected shall be an estate of inheritance in fee, or for life or lives absolute or

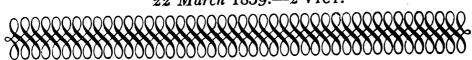
affected shall be an estate of inheritance in fee, or for life or lives absolute or qualified, or for any other estate or interest whatsoever.

The word "Enfranchisement" shall mean and include the commutation or discharge of all lands holden of a manor from heriots, or any other manorial rights.

The word "Person" or "Party" shall extend to and include the Queen's Majesty, and any body politic, corporate or collegiate, as well as an individual.

Every word imputing the "Singular Number" only, shall extend to and include several persons or parties, as well as one person or party, and several things as well as one thing respectively, and the converse.

And every word imputing the "Masculine Gender" only, shall extend to and include a female as well as a male.



[AS AMENDED BY THE COMMITTEE]

For the Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights.

[N.B.—The Clauses marked (A.) (B.) (C.) were added by the Committee.]

PHEREAS it is expedient to provide for the gradual and Preamble. entire Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights, on such a basis as shall be equitable towards the interests of all Parties affected; BE it therefore Enacted, by The QUEEN's most Excellent Majesty, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT "THE TITHE COMMISSIONERS FOR ENGLAND AND WALES," for the time being, shall be the Commissioners for carrying this Act into execution; and that should the same be not fully carried into execution before the duties of the said Tithe Commissioners shall cease, or should the said Commissioners or any of them decline to carry this Act into execution, it shall be lawful in any such case for one of Her Majesty's Principal Secretaries of State to appoint any number of fit persons to be Commissioners to carry this Act into execution, in the place of such Commissioner or Commissioners so ceasing or declining to act, either solely or jointly with the remaining or continuing Commissioners, as occasion may require, and at pleasure to remove any one or more of the Commissioners so appointed or acting, so that the number of Commissioners shall never exceed Three; and upon every vacancy in the office of Commissioner some other fit person shall be appointed to the said office in like manner; and until such appointment it shall be lawful for the continuing Commissioners or Com-

1. Appointment of Com-

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missioner to act as if no such vacancy had occurred.

Style of Comsioners

To have Com-

mon Seal.

And be it Enacted, That the Commissioners acting in the execution of this Act shall be styled "THE COPYHOLD ENFRANCHISEMENT COMMISSIONERS," and shall have their Office in London or Westminster; and they or any Two of them may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the said Commissioners shall cause to be made a Seal of the same Board, and shall cause to be sealed or stamped therewith all agreements, and awards or apportionments confirmed by the said Commissioners in pursuance of this Act; and all such agreements, awards, apportionments and other instruments proceeding from the said Board, or copies thereof, purporting to be sealed or stamped with the seal of the said Board, shall be received in evidence, without any further proof thereof; and no agreement, award or apportionment shall be of any force unless the same shall be sealed or stamped as aforesaid.

Instruments sealed to be received in evidence.

3. Commissioners to report to Secretary of State.

And be it Enacted, That the said Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings, or any part thereof, as the said Principal Secretary of State shall require, and shall once in every year send to one of the Principal Secretaries of 20 State a general Report of their proceedings; and every year such general Report shall be laid before both Houses of Parliament, within Six Weeks after the receipt of the same by such Principal Secretary of State, if Parliament be sitting, or if Parliament be not sitting, then Six within Weeks after the next meeting thereof.

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AnnualReport to be laid before Parliament.

4. Power to appoint and remove Assistant-commissioners. Secretary, &c.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time, to employ such of the Assistant-commissioners appointed under the provisions of an Act passed in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, and intituled, "An Act for the Commutation of Tithes in Eng- 30 land and Wales," as they shall see fit, or to appoint a sufficient number of other persons to be Assistant-commissioners, and also a Secretary assistant-secretary, and all such clerks, messengers and officers as they shall deem necessary, and to remove such Assistant-commissioners, Secretary, assistant-secretary, clerks, messengers or officers, or any of them, and on any vacancy in any of the said offices to appoint some other person to the vacant office; and the persons so employed or appointed shall assist in carrying this Act into execution, at such places and in such manner as the said Commissioners may direct: Provided always, That the said Commissioners shall not appoint more 40 than Ten such Assistant-commissioners to act at any one time, unless the Lord High Treasurer, or any Three or more of the Commissioners of Her Majesty's Treasury, shall, in the case of each such appointment, consent thereto: Provided further, That the number of such

such clerks, messengers and officers shall be subject to the like consent.

And be it Enacted, That no Commissioner or Assistant-commissioner appointed as aforesaid shall, during the continuance of such sit in House of office, be capable of being elected or of sitting as a Member of the House of Commons.

Commons.

And be it Enacted, That no Commissioner or Assistant-commissioner, Secretary or other officer or person so to be appointed, shall hold his office for a longer period than Ten years next after the 10 day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of Ten years and the then next Session of Parliament, so much of this Act as authorizes such appointment shall cease.

6. Operation of Act as to Ap. pointments, limited to Ten years.

And be it Enacted, That the salaries of the Commissioners, the 15 allowance to the Assistant-commissioners, and the salary of the Secretary, Assistant-secretary, clerks, messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord Treasurer or the Commissioners of Her Majesty's Trea-

Salaries and

sury, or any Three of them: Provided always, That the salary of 20 a Commissioner shall not exceed the sum of One thousand Five hundred Pounds a year, including any salary to which he may be entitled under the said Act of his late Majesty King WILLIAM the Fourth, nor the allowance to an Assistant-commissioner the sum of Three Pounds for every day that he shall be actually employed or 25 travelling in the performance of the duties of his office, including any allowance to which he may be entitled under the said Act, nor the salary of the Secretary or Assistant-secretary the sum of Eight hundred Pounds a year, and that the salaries of the clerks, messengers and other officers shall be in fit proportion: Provided also, 30 That the said Lord Treasurer or Commissioners may allow to any Commissioner or Assistant-commissioner, Secretary, Assistant-secretary, clerk, messenger or other officer, any such reasonable travelling or other expenses as may have been incurred by him in the performance of his duties under this Act, in addition to his salary or allowance

And be it Enacted, That the salaries, allowances, and travelling To be paid out of Conso and other expenses of the Commissioners, Assistant-commissioners, Secretary, Assistant-secretary, clerks, messengers and officers as aforesaid, and all other incidental expenses of carrying this Act into 40 execution not hereinbefore otherwise provided for, shall be paid by the Lord Treasurer or the Commissioners of Her Majesty's Treasury out of the Consolidated Fund.

35 respectively.

lidated Fund,

And 122. A 2

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9.
Declaration of
Commissioners, &c.

And be it Enacted, That every Commissioner shall, before he shall enter upon the execution of his office, make the following Declaration before one of the Judges of Her Majesty's Courts of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

"I, [A. B.,] do solemnly declare, That I will faithfully, impartially and honestly, according to the best of my skill and judgment, fulfil all the powers and duties of a Commissioner under an Act passed in the year of the reign of Queen Victoria, intituled, [here set forth the Title of this Act.]"

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And that every such Assistant-commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "Assistant-commissioner" for the word "Commissioner"), before such Judge or Baron, or before any two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant-commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such Commissioner and Assistant-commissioner, with the time when, 20 and the name or names of the Judge, Baron, Justices or Master Extraordinary before whom he shall have made the declaration as aforesaid, shall be forthwith published in the London Gazette.

10. Commissioners may delegate powers, &c.

And be it Enacted, That the said Commissioners may delegate to their Assistant-commissioners, or to any one or more of them, such of the powers hereby given to the said Commissioners, as the said Commissioners shall think fit, except the power to confirm agreements, awards or apportionments, or to frame forms of agreements and other instruments as hereinafter provided, or to do any act herein required to be done under the seal of the said Commissioners; and the powers so delegated shall be exercised under such regulations as the said Commissioners shall direct; and the said Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and notwithstanding the delegation thereof may act as if no such delegation had been made; and all acts done by any such Assistant-commissioner, in pursuance of such delegated powers, shall be obeyed by all persons as if they had proceeded from the said Commissioners, and the non-observance thereof shall be punishable in like manner.

11.
Manors and
Lands vested
in the Crown.

And be it Enacted, That whenever the ownership of any Manor or Lands to which the provisions of this Act are intended to apply 40 is vested in Her Majesty, the First Commissioner of Her Majesty's Woods, Forests and Land Revenues for the time being, or in case such Manors or Lands shall be vested in Her Majesty in right of the Duchy of Lancaster, or of the Duchy of Cornwall, the Chan-

cellor of the Duchy of Lancaster, or the officers of the Duchy of Cornwall entitled to grant leases of lands, parcel of the Duchy of Cornwall, shall for the purposes of this Act be substituted instead of the owner of such manors or lands respectively.

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And be it Enacted, That whenever the lord or tenant of a manor, or any person interested in any question or right connected with any enfranchisement under this Act, shall be a minor, idiot, lunatic, feme covert, beyond the seas, or under any other legal disability, the guardian, trustees, committee of the estate, husband or attorney, respectively, 10 or in default thereof such person as may be nominated for that purpose by the said Commissioners, after due inquiry shall have been made by them as to the fitness of such person, and whom they are hereby empowered to nominate under their hands and seal, shall, for the purposes of this Act, be substituted in the place of such lord, tenant or 15 other person.

And be it Enacted, That it shall be lawful for any lord or tenant of a manor, or any other person interested in any enfranchisement under

12. In case Lord under disabilities,

this Act by a power of attorney given in writing under his hand from time to time, to appoint an agent to act for him in carrying into exe-20 cution the provisions of this Act; and all things which by this Act are directed or authorized to be done by or in relation to any person, may be fully done by or in relation to the agent so duly authorized of such person; and every such agent shall have full power in the name and on behalf of his principal to concur in and execute any agreement, and 25 vote in any question arising out of the execution of this Act, and make any inspection and sign any notice of objection under the provisions of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the power of attorney under which the agent shall have acted, or a copy thereof authenticated by the signature of Two credible Witnesses shall at the first meeting under the Act attended by such attorney under such power, or whenever requested by the chairman or by any other interested party present at such meeting, be delivered to the chairman for the time being, and the same or any like copy shall be appended to every agreement executed by any such attorney, and shall be sent with it to the office of the said Commissioners as hereinafter provided: Provided always, That if any person having made such an appointment shall deliver notice in writing of the revocation thereof to the chairman

13. Agent may be appointed by Power of Attorney.

following: " Manor of in the County of " I, A. B. of, &c., Lord [or, Copyholder, Customary Tenant or Freeholder, as the case may be of the said Manor, do 122. **A** 3 hereby

at any such meeting, no act which shall be done by the person so appointed after the delivery of such notice, without a fresh appointment, shall bind the principal; and any such Power may be in the form hereby appoint C. D. of, &c., to be my lawful Attorney to act for me in all respects as if I myself were present and acting in the execution of an Act passed in the year of the reign of Her present Majesty, intituled, [here insert the title of this Act.] Dated this day One thousand eight hundred and

> A. B." (signed)

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14. Meeting at which lord and a majority in number and Two-thirds in value may agree on terms of enfranchisement, which shall bind all.
Twenty-one days' notice to be given, and to be twice advertised.

And be it Enacted, That any one or more of the lords or tenants of any manor whose interest respectively shall not be less than Onefourth of the whole annual value of the manor or lands holden thereof, 10 may call a meeting of the lords and tenants of such manor, by notice thereof in writing under his or their hands, to be affixed at least Twenty-one Days before such meeting on the principal outer door of the church of the parish within the limits of which the said manor or the greater part thereof in value extends, or on the door or on 15 some conspicuous part of some house or building wherein the courts for the said manor are usually held, and to be twice at least within such Twenty-one Days inserted in some newspaper (or once in each of two newspapers generally circulated in the county within which the said manor or the greater part thereof as aforesaid extends,) for 20 the purpose of making an agreement for the general enfranchisement of lands holden of such manor; and every lord and tenant, attending such meeting shall bear his own expenses of attendance; and the lord and tenants who shall be present at any such meeting called as aforesaid, such tenants not being less in number than a 25 Majority of the tenants of such manor, and the interest of the lord and tenants in the manor and lands respectively not being less than Two-thirds of the annual value thereof respectively, computing the interest of tenants as hereinafter is provided, may proceed to make and execute such an agreement as is hereinafter mentioned for the enfran- 30 chisement of the lands holden of the said manor from all the manorial rights of the lord, except his rights (if any) in mines and minerals, and except his reversionary interest, if any, on the termination of any grant for life or lives, or other term, without right of renewal; and if expressly agreed between such lord and tenants, the enfranchisement may 35 be made to extend to rights in mines and minerals, and to such reversionary interest, but otherwise shall not extend to or affect such rights or interest; and thereupon such agreement shall be reduced into writing, and a memorandum thereof shall be signed by the persons so agreeing to such enfranchisement, or by their respective agents.

Terms on which Agreement may be made.

And be it Enacted, That such agreement for enfranchisement from the rights of the lord may be entered into in any of the modes hereinafter mentioned; that is to say, either on payment to the lord of a sum certain for the enfranchisement of all the lands holden of the manor for which such meeting shall have been called,

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from all the lord's rights in such lands, or on payment of a sum certain for all arbitrary fines; a sum certain for all fines certain; a sum certain for all heriots in kind; a sum certain for all heriots certain; a certain number of years' purchase for quit and other manorial rents; a sum certain for all the lord's rights in timber; and if the lord shall be entitled to any other species of manorial right in such lands, except in mines and minerals or such reversionary interest, a sum certain for every such species of right; and two or more of such rights may be commuted for one sum certain, 10 or it may be agreed that the sum or sums to be paid for enfranchisement as aforesaid, or any of them, shall be subject to increase or diminution by the valuers to be appointed as hereinafter mentioned, to such an amount per centum as shall be therein expressed; or that the sum or sums to be paid for enfranchisement as aforesaid, or any 15 of them, or the apportionment for each tenant, shall be fixed by such valuers, subject to the approbation of the said Commissioners; and all other provisions may be made for carrying into execution the intention of the parties and of this Act, so that nothing in such agreement contained (unless every tenant interested therein shall be a party thereto) 20 shall exclude or prevent the exercise of the powers hereinafter contained for apportioning the sum or sums to be paid for enfranchisement according to the particular circumstances of each tenement, and for the relief of tenants for life and other persons in the cases hereinafter provided for; and such agreement may provide for the costs of the 25 proceedings under this Act, subject to the approbation of the said Commissioners, and may also fix the annual value of the fees and emoluments of the steward and other officers of the manor of which they will be deprived by such enfranchisements, in order that the said Commissioners may be enabled to award compensation 30 as hereinafter mentioned: Provided always, That if there shall be a separate commutation for any species of manorial right, each of such commutations shall require the concurrence of Two-thirds in interest (computed as hereinafter mentioned) of the tenants liable to the right or rights so commuted, and in case of doubt or 35 difference as to the sufficiency of such interest, the decision of the said Commissioners thereon shall be conclusive; and every agreement so made and executed, and confirmed in manner hereinafter mentioned, shall be binding on all persons interested in such manor or lands.

And be it Enacted, That the said lord and tenants present at such meeting shall elect a chairman (the vote of the lord being reckoned as equal to one-third of the whole number of votes, and the votes of the tenants being reckoned individually), who shall forthwith proceed to ascertain the number and interest of the lord and tenants then present in person or by their agents; and in case it shall thereupon appear that the persons present at such meeting are not sufficient in number and interest, or a sufficient portion are not willing to make and

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16. Provisional Agreement. execute such an agreement as shall be binding on all persons interested therein, it shall be lawful notwithstanding for any number of the persons present to make and execute a provisional agreement of the like form and tenor; and every such provisional agreement which shall be executed within Six calendar Months from the day of such meeting, by such persons as would have been sufficient in number and interest to make a binding agreement at such meeting, shall be as binding as if the same had been sufficiently executed at such meeting.

17.
Proportional interest, how to be computed for purpose of voting.

And be it Enacted, That the proportional interest of the tenants, so far as relates to their power to make such agreement or provisional agreement, or to appoint valuers, or to give any notice to the said Commissioners or Assistant-commissioners, as hereinafter provided, shall be computed in manner hereinafter mentioned: that is to say, the interest of the tenants liable to fines arbitrary or uncertain in amount, shall be estimated according to the proportional sum at which their lands shall be rated to the relief of the poor in the parish or place wherein the same are situated, and, if there should be no such rates, according to the rules by which property of the same kind is in the largest adjoining parish rated to the relief of the poor; the interest of tenants liable to fines certain, shall be estimated according to such rule as shall be specially made for the occasion by the said Commissioners on the application of the tenants, or, for want of such rule, as if the annual value of their respective lands were One-half of the amount of such fine certain; the interest of tenants liable to heriots in kind, shall in respect of such liability be estimated (unless otherwise specially directed by the said Commissioners) at One-fifth of the annual value of their respective lands, as nearly as the same can be estimated by the chairman at any such meeting, except that in every case wherein there shall be separate commutations for any manorial rights, the interest of the tenants liable to heriots in kind, so far as relates to the proportion necessary to make a commutation for such heriots binding on the whole, shall be estimated according to the number of heriots in kind to which they are respectively liable; the interest of tenants liable to manorial rights in timber, shall only be computed in respect of such liability, in case such rights shall not be included in the same commutation with fines or heriots in kind, when their interest (so far as relates to the proportion necessary to make any commutation for such rights binding) shall be estimated according to the value of the timber standing on their respective lands, after a sufficient allowance shall have been made for such timber or trees as might be cut for repairs or without payment of a fine; and the interest of tenants liable to any other manorial rights shall not be computed in respect of such liability, unless for the purpose of making a separate commutation, when their interest in respect of such liability shall be estimated in such manner as the said Commissioners shall direct; and the interest of

no person shall be computed in respect of a copyhold estate who has not been admitted tenant thereof according to the custom of the manor, or who has made an absolute surrender of all his estate and interest therein; and it shall be lawful for the said Commissioners to make special rules respecting the computation of the interests of tenants liable to fines certain, heriots, rights in timber and other manorial rights, on the application or with the consent of a majority of the parties interested and previous to the execution of any agreement, and such rules shall have the same force as if made by this Act.

And be it Enacted, That in case an adjournment of the said meeting shall for any cause be desired by a majority in number of the persons attending such meeting, the chairman shall adjourn the meeting to any time and place then by him to be declared, and so from time to time, in case the same shall be in like manner desired by a majority 15 of the persons attending such meeting as aforesaid; and notice of every such adjourned meeting shall be given, under the hand of the chairman, and shall be affixed in a conspicuous place on the outside of the building in which such meeting, or the last adjournment thereof, shall have been holden, and once advertised in a newspaper as aforesaid; and the like order of proceeding shall be observed at any such adjourned meeting; and every thing done at any such adjourned meeting shall be as valid as if done at the original meeting.

18. Meeting may e adjourned, Notice being given.

And be it Enacted, That every such agreement shall bear date on the day on which the first signature is attached thereto, or to the 25 minutes thereof, and shall be in such form as the Commissioners shall from time to time direct, or to the like effect.

19. be in the form missioners shall direct.

And be it Enacted, That the said Commissioners shall frame and cause to be printed, so soon as conveniently may be after their appointment or beginning to act, forms of notices and agreements, and such other instruments as in their judgment will further the purposes of this Act, and supply all or any of such forms to any person or persons requiring the same, or to whom the said Commissioners shall think fit to send the same, for the use of any lord or copyholder or other tenant desirous of putting this Act into execution.

20. Commissioners to frame and circulate Forms, &c.

And be it Enacted, That any Commissioner or Assistant-commissioner, if the said Commissioners shall think fit, may attend any such meeting for the purpose of taking part in the discussion and advising on the terms of agreement; but no Commissioner or Assistant-commissioner, during the time that he is actually attending the meeting of Agreement. for such purpose, shall have any of the powers herein given to the said Commissioners in case of an award or apportionment by the said Commissioners as hereinafter provided.

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Suits and Differences as to Rights or Boundaries may be referred to Arbitration

And be it Enacted, That if any action or suit shall be pending, touching the right to or amount of any fines, heriots or other manorial rights, or touching the situation or boundary of any lands, or if any difference shall arise whereby the making and executing of any such agreement shall be hindered, it shall be lawful for the lord and tenants or claimants, being parties to such action, suit or difference, to submit the same to reference by any writing under their respective hands, containing an agreement that such submission shall be made a rule of any of Her Majesty's courts of law, upon such terms of reference as the said parties may agree upon; and the decision of the arbitrator or arbitrators named in the said reference, shall be final and conclusive on all persons: Provided nevertheless, That no person being owner of an estate in a manor or lands less in the whole than an immediate estate of fee-simple or fee-tail, or corresponding copyhold estate, shall 15 be empowered to submit to any such reference, so as to bind any person in reversion, remainder or expectancy, without the consent of the said Commissioners; and that it shall be lawful for the said Commissioners, if they shall think fit so to do, but not otherwise necessary, to direct that any person in reversion, remainder or expectancy, whom they shall deem to be interested therein, shall be made a party to such reference.

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23. Consents to be required to Agreement.

Provided always, and be it Enacted, That in every case in which any manor or lands shall be held under any Archbishop, Bishop, Dean and Chapter, Archdeacon or any ecclesiastical corporation, or any body politic, or any such parties, persons or bodies politic shall be interested in any manors or lands to the extent of One-third of the value thereof, computed as to such lands as aforesaid, and it shall appear to the said Commissioners that the interests of such parties, persons or bodies politic would be affected by the enfranchisement 30 under this Act, no agreement to be made and executed under this Act shall be deemed to be executed by the said lord and tenants, unless the consent of such parties, persons or bodies politic whose interests appear to the said Commissioners to be so affected, shall be given under the hand or seal of the party, person or body politic giving the same; 35 and such consent shall be annexed to the agreement for enfranchisement, and taken as part thereof.

24. Agreement to be confirmed by the Commissioners.

And be it Enacted, That every such agreement, as soon as may be after it shall have been executed by the lord and tenants, to the number and value as aforesaid, shall be sent by the chairman of the meeting, or by the person in whose custody it shall then be, to the office of the said Commissioners, and the said Commissioners, by themselves, or by some Assistant-commissioner, shall cause inquiry to be made, and shall require such proof as will be satisfactory

satisfactory to them, whether or not it ought to be confirmed; and if they shall be satisfied that it ought to be confirmed, the said Commissioners shall confirm the agreement under their hands and seal, and shall add to such agreement the date of the confirmation, and shall publish the fact of such confirmation, and the date thereof, within the manor, in such way as they shall deem fit; and every such confirmed agreement shall be binding on all persons interested in the said manor and lands.

25. Appointment of Valuers.

And be it Enacted, That at the said meeting for entranchisement. 10 or at some adjournment thereof, or at some other meeting to be called in like manner, either before or after the confirmation of the agreement, valuers shall be appointed, in manner hereinafter mentioned, for the purpose of making such valuations, apportionments and schedules as shall be required for carrying the said agreement into 15 execution; and in case such enfranchisement shall be in consideration of a fixed sum payable to the lord, the tenants present at such meeting shall appoint a valuer or valuers; and in case the majority in respect of number and the majority in respect of value (computed as aforesaid) shall not agree upon the appointment, then they shall appoint Two or such other even number of valuers as shall be then agreed on by such tenants, half of such number of valuers to be chosen by a majority in respect of number, and the other half by a majority in respect of value (computed as aforesaid), of the tenants then present in person or by their agents; and when such enfran-25 chisement shall not be in consideration of a fixed sum, payable to the lord, one-half of the number of valuers shall be appointed by the lord, or the majority of the lords in value, and the other half by the tenants in manner aforesaid, or such respective parties may concur in the appointment of one or more valuer or valuers, and any 30 question which may arise as to the regularity of the appointment of such valuer or valuers, shall be decided by the said Commissioners.

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And be it Enacted, That as soon as may be after the choosing such valuers, and after the confirmation of the said agreement, the said valuers shall apply to the said Commissioners for instructions as to the duties to be performed by them pursuant to such agreement, and having received such instructions shall proceed to make and send in to the said Commissioners such valuations, apportionments and schedules as they shall require: Provided, That it shall be lawful for the said valuers, when an even number shall be chosen, by any writing under their hands, to appoint an umpire before they proceed upon the business of such valuation, and the decision of the umpire, on the questions in difference between the valuers, shall be binding on them respectively, and shall be adopted by them respectively in their valuation: Provided also, That in case such umpire shall not

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be so appointed, it shall be lawful for the said Commissioners at any time to appoint a fit and proper person to be such umpire.

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27. Valuers may enter on Lands, &c.

Must make Declaration.

And be it Enacted, That the said valuers and umpires respectively (if as to such umpires it shall become necessary for them to act respectively), and their agents or servants, at all reasonable times, may enter upon any of the lands and premises affected by such agreement, and make an admeasurement, plan and valuation or inspection of the same, without being subject to an action or molestation for so doing: Provided always, That no valuer or umpire shall be capable of acting until he shall have made and subscribed 10 before the said Commissioners or some Assistant-commissioner, or a Justice of the Peace or Master Extraordinary in Chancery, a solemn declaration to the same purport and effect as the declaration hereinbefore directed to be made by the said Commissioners, substituting only the proper description of the office of such person for that of 15 a Commissioner; which declaration it shall be lawful for the said Commissioners, Assistant-commissioner, Justice of the Peace or Master Extraordinary to administer; and every such declaration so made and subscribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the office 20 of the said Commissioners.

28. Steward to furnish information:

And be it Enacted, That for the purpose of enabling the said valuers to make such valuations, apportionments and schedules, and otherwise to facilitate enfranchisements under this Act, the steward of the manor for the time being shall, on request by the said valuers 25 or any of them respectively, or the chairman of any meeting or adjournment thereof, or of any tenant having signed the notice of an intended meeting, make out, within such period as the said Commissioners shall direct, a correct statement in writing of the several tenants of the said manor, and of the respective lands to which 30 they shall respectively stand admitted for life or otherwise, or which they shall hold, subject to fines or heriots, and of the amount to which the same lands are rated to the relief of the poor, so far as he can distinguish or estimate the same, and of the amounts received by the lords on account of the three last heriots in respect of any such 35 lands, and of any other information which the said Commissioners shall from time to time direct, and which he has the means as such steward to obtain, and shall produce the same for inspection at any such meeting or adjournment thereof, on being paid for the same as hereinafter provided, and shall deliver to, or allow any extracts thereof 40 as to such rating, to be taken by the chairman of such meeting, and shall, upon request by the said valuers, and being paid as aforesaid, deliver to them respectively a true copy of such statement or the parts thereof required by them, and for preparing such statement

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the said steward shall receive from the person requiring the same such a remuneration as shall have been agreed to, or in case of difference, such a sum as the said Commissioners shall under their hands order and direct; and for copies or extracts thereof the sum of Fourpence for each Seventy-two Words; and the said steward for the time being, or, if no steward, the lord, shall within Three calendar Months after the signature of the said agreement, or whenever required by the said Commissioners, make out and send to the said Commissioners a Schedule stating the names of the several tenants; to which class 10 they respectively belong; their residences, descriptions and ages, so far as he can ascertain the same; when more than one tenant, whether admitted as joint tenants or how otherwise; the description of the copyhold lands, whether copyhold, customaryhold subject to fines, customary freehold, or otherwise subject to manorial rights; in 15 what parish situate; to what amount rated, or assumed proportion of rate if rated with other lands; and as to lands subject to fines, arbitrary or dependent on yearly value, with what other lands rated; amount of quit or free rents, whether held at fines arbitrary on death and alienation, at fines certain, or how otherwise; whether subject to heriots, and 20 the amount received for each of the Three last heriots for such tenement; whether subject to rights in timber, and what number to each tenement, and the number of changes of tenant on each tenement, subject to fines on death or alienation during the previous Seventy Years, or such other number of years as the said Commissioners shall in any 25 case direct; the number of changes of tenant on each tenement subject to fines on death only; and comprising such other information, and in such form as the said Commissioners shall from time to time direct, and stating at the foot of such Schedule the amount of compensation to which he makes claim, and the grounds upon which the same is 30 computed; and for the purpose of ascertaining the ages of any tenants, it shall be lawful for the steward or lord to apply by letter (delivered or sent by post or left on the copyhold premises) for such information, and every tenant refusing or neglecting for the space of Twenty-one Days to give such information, shall not be entitled to have any 35 amendment made in such Schedule, by reason of any error the steward may commit in inserting such age, or to object to the apportionment hereinafter mentioned by reason of such mis-statement of age; and any tenant falsely stating his or her age shall forfeit and pay such sum not exceeding the sum of Ten Pounds, as the said Commis-40 sioners shall under their hands order and direct, and which shall be added to the amount to be payable by him or her under the apportionment, and recoverable in like manner, and applied in and towards the costs of apportionment or other costs of enfranchisement, as the said Commissioners shall direct, or shall be recoverable by distress or action as hereinafter provided with respect to costs payable under this

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Act; and the said steward shall receive for the said Schedule and the expense of application, as to ages and rates, such sum as the said Commissioners shall deem fit and proper to allow for the same, with the other costs of apportionment; and in like manner such steward or lord shall from time to time make out and send to the said Commissioners, upon request, all statements, schedules and information which they shall from time to time require from the court rolls, quit rentals and other documents of the like nature; and in case default shall be made by the steward or lord in complying with any such request, he shall forfeit such sum and sums, not exceeding the sum of Five Pounds, as the said Commissioners shall from time to time in their discretion order and direct, and which sums shall be deducted from any compensation to be awarded him under this Act.

29. Valuers to take particular circumstances of each case into consideration.

And be it Enacted, That when the said valuers shall be so instructed by the said Commissioners, pursuant to such agreement, they shall accordingly proceed to apportion the sum or sums to be paid for enfranchisement, and in making such apportionment the said valuers shall take into account the age and interest of the tenant, the probability of early or frequent payments of fines or heriots, the facilities for improvement, and all other circumstances relating to the land to be enfranchised, and shall make due allowance for the same; and when the tenant shall have only a life estate or other limited interest in his land, or the annual value of the tenement to be enfranchised shall not exceed the sum of Twenty Pounds, it shall also be lawful for the said valuers to state what proportion of the sum to be paid in respect of such land is for enfranchisement from fines or rights in timberand what addition should be made thereto if the payment thereof should be deferred until the next act or event in which a fine would become due to the lord, and shall state whether and in what cases, in their opinion, the payment should be deferred, and shall state such other particulars as may enable the said Commissioners to defer payment of the sum or sums to be charged on any land, if they shall think fit; and the said valuers shall, if so instructed, make an apportionment of the costs of the proceedings under this Act, and of the compensation to be paid to the steward or other officers of the manor, subject likewise to the approbation of the said Commissioners; and it shall also be lawful for the said valuers to make such other allowances as they shall deem just for the particular circumstances of the several tenements, so that such allowances shall not be inconsistent with the said agreement for enfranchisement, and the instructions received from the said Commissioners.

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30. Schedules of Valuation to be deposited for inspection, and meeting appointed for hearing objections.

And be it Enacted, That as soon as the valuations, apportionments or schedules, to be so made by the said valuers as aforesaid, shall have been sent to the said Commissioners, they shall cause a copy of the same to be deposited in the hands of the steward for the time being of the manor, or, if no steward, with the lord of the said manor, or with such person as they shall see fit, for the inspection of all persons interested therein within the manor, or within a parish wherein part of the manor is situated, and shall forthwith cause notice to be given through such steward or lord, or in such manner as to the said Commis-10 sioners shall seem fit, of such copy being so deposited for inspection, and which inspection shall at all reasonable times up to the meeting after mentioned, be allowed by such steward or lord without fee, (and for every neglect to allow which, such steward or lord shall forfeit such sum not exceeding Twenty Shillings, as the said Commissioners shall 15 order and direct, and which shall be deducted from the sums payable to such steward or lord under this Act); and in such notice such place and time, or places and times, shall be fixed as the said Commissioners shall think fit (the first not earlier than Twenty-one Days from the first giving such notice) for holding a meeting for hearing and determining objections to the said valuation, or the amount of costs claimed by the said valuers, or to the said steward's schedule by any parties interested; and the said Commissioners, or some Assistant-commissioner (to whom respectively such steward or lord shall on the day before or previous to the commencement of such first meeting, as 25 required, deliver such copy of the said valuations, apportionments or schedules, with all notices received as hereinafter provided,) shall at such meeting or meetings hear and determine any objection which may then and there be made against the said valuations, apportionments or schedules respectively, or any part thereof, or adjourn the further hear-30 ing thereof, if they or he shall think proper, to a future time, and may. if they or he shall see occasion, direct any further valuations, apportionments or schedules, inquiries or statements to be made, and from time to time fix further meetings for the hearing and determining objections; of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed with regard to the original meeting: Provided, That no person shall be entitled to make any objection to any such valuations, apportionments or schedules, who shall not have left notice in writing of such intended objection with or for the steward or lord of the said manor with whom such copies shall be deposited at the place of deposit thereof Five Days before the time fixed for any such meeting (exclusive of the day of leaving such notice, but inclusive of the day of meeting,) forms of which notices shall be forwarded by the said Commissioners to the said steward or lord, or other person, and shall be by him delivered to any interested party requiring the same; and which notices the said steward or lord, or other person, shall immediately on receipt thereof annex to such copies,

copies, or one of them, and shall note such objection on the copy to which the same relates, and allow the inspection of the said notices in like manner and under the like penalty as aforesaid; and any default in any of the several matters and things hereinbefore required shall also subject such steward or lord, or other person, to the like penalty; and when the said Commissioner or Assistant-commissioner shall have heard and determined all such objections, they and he are and is hereby required to cause such valuations, apportionments or schedules to be amended, as occasion shall require; and also from time to time, whether at such meeting or not, to amend the steward's schedule, so as to show all deaths and alterations in ages of the tenants or otherwise taking place after making out the same, and before the apportionment hereinafter provided for, on being satisfied by the affidavit of the steward, sworn before a Master Extraordinary in Chancery, or by such other proof as they or he may deem sufficient, that such amendments and alterations are required.

31. Expenses of Proceedings under the Act.

And be it Enacted, That the expenses of the proceedings under this Act shall (except in cases where, from special causes, the said Commissioners shall direct otherwise, and then as they shall direct,) be payable in manner following; (that is to say) where the valuers shall be appointed by the tenants, the costs of the valuations, apportionments and schedules shall be paid by the tenants rateably, according to their interest; but where the valuers shall be appointed by the lord and tenants as aforesaid, then if only two shall be appointed, the lord shall pay half the costs, and the tenants as aforesaid shall pay half; and where more than two valuers shall be appointed, the lord shall pay One-third and the tenants as aforesaid shall pay Two-thirds; and in all cases of dispute or difference as to the amount of the costs, or the persons on whom any costs should fall, the said Commissioners shall have power to decide the same.

32. Schedule to be made by the Commissioners.

And be it Enacted, That forthwith after receipt of the valuations, apportionments or schedules so settled, the said Commissioners shall cause a schedule to be made of the sums to be paid for enfranchisement by the several tenants, or charged on their respective lands, and of the periods of payment of the principal money respectively, or commencement of interest, either pursuant to the apportionment made by the said valuers, or as shall seem just to the said Commissioners, having regard to all the circumstances of the case; and if the said Commissioners shall think fit to award any compensation to the steward or other officers of the manor for the loss they may sustain by such enfranchisement, the said schedule shall contain an apportionment of the sum so awarded; and the said schedule shall contain all such other orders, awards and declarations as shall be required for carrying this Act into execution, according to the provisions therein contained.

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Apportioninspected, errors pointed out, and then confirmed.

And be it Enacted, That the said Commissioners shall forthwith, after making such schedule, cause a copy thereof to be deposited with the steward, lord or other person as aforesaid, for inspection within the manor, or within some parish where part of the manor is situate, by any parties interested, and give notice of such power to inspect; and which inspection, during such period as the said Commissioners shall direct, shall be allowed as aforesaid, under the penalty aforesaid, recoverable as aforesaid; and at the expiration of that period, the said steward, lord or other person as aforesaid shall return the same copy or copies to 10 the said Commissioners, together with any notice he may have received during that period, pointing out any errors therein, and a statement of any errors which he may have discovered therein; and the said Commissioners shall forthwith inquire into and rectify any such errors therein, and shall cause the said schedule of apportionment 15 to be engrossed on parchment or paper, and annex thereto any agreements, schedules, maps, plans or other documents or writings required for elucidation thereof, and shall confirm such apportionment under their hands and seals, and shall add thereto the date of such confirmation.

> deposited with Clerk of the Peace.

And he it Enacted, That Two Copies of every confirmed instrument Copies to be or schedule of apportionment and confirmed agreement and schedules to be annexed thereto, or written in the same book therewith, shall be made and sealed with the seal of the said Commissioners, and one such copy shall be delivered to the steward of the manor, to be deposited and kept with the Court Rolls thereof, and the other copy shall be deposited with the Clerk of the Peace for the county or jurisdiction within which the said manor, or the greater part thereof in value computed as aforesaid, shall be situated, to be by him and his successors in office kept with the papers and books of the Clerk of the Peace for the time being; and all persons interested therein may have access to the said copies respectively, and shall be furnished with copies of or extracts from any such copy on giving reasonable notice to the party having the custody of the same, and on payment of Two Shillings and Sixpence for each inspection, and after the rate of Threepence for every Seventy-two Words contained in such copy or extract; and every recital or statement in, or agreement, schedule, map, plan, document or writing annexed to such confirmed apportionment, shall be deemed satisfactory evidence of the matters therein recited or stated, or of the accuracy of such map or plan; and such deposit shall be notified by an advertisement or otherwise, as the said Commissioners may from time to time direct.

And be it Enacted, That the said Commissioners, if they shall see fit, before confirming any agreement, valuation, assessment, schedule or apportionment, may require notice thereof to be given in such man-

ner as they shall direct to the person next in remainder, reversion or expectancy of an estate of inheritance in any manor or lands, or any other person to whom they may think notice ought to be given, and may by themselves or by some Assistant-commissioner hear and determine any objection made to such confirmation by any person so interested therein.

36. Commissioners may correct errors with consent.

And be it Enacted, That it shall be lawful for the said Commissioners to correct or supply any manifest error or omission in any agreement, valuation, assessment, schedule or apportionment at any time after the same shall respectively have been made, with the 10 consent in writing of all the parties interested, but not otherwise.

37. CLAUSE (A.) Lord, and a majority of tenants in number, and two-thirds in value, may request that this Act shall not apply to them.

And be it Enacted, That if the lord of any manor, and a majority of the tenants thereof in number, and whose interest shall not be less than Two-thirds in value, computed as aforesaid, shall at any time before the First day of August One thousand eight hundred and Forty-two, give notice to the said Commissioners at their office in London or Westminster, by a declaration in writing signed by such lord, and such majority of tenants, of their desire that the said manor and the lands holden thereof shall be excluded from all the powers and provisions of this Act, such declaration having been signed at a 20 meeting called in manner aforesaid, or within Six Months after such meeting, as hereinbefore provided for the signature of an agreement, it shall be lawful for the said Commissioners to exclude such manor and lands, and the lord and tenants thereof, in respect of the same, from all the powers and provisions of this Act, and to give directions 25 accordingly; and in such case no part or parts of this Act shall apply to such manor and lands, except so much of it as may be necessary for ascertaining that such declaration has been sufficiently signed, and for which purpose the said Commissioners may give such directions as they shall see fit.

38. Compulsory Eutranchisement.

And be it Enacted, That after the First day of August One thousand eight hundred and Forty-two, the said Commissioners shall proceed in manner hereinaster mentioned, at such time and in such order as to them shall seem fit, either by themselves or some Assistantcommissioner, to ascertain the total sums to be paid for the enfranchisement of the lands in the manors in which no agreement binding on the lord and tenants as aforesaid shall have been made and confirmed as aforesaid: Provided nevertheless, That if any proceeding shall be had towards the making and executing any such agreement after the said Commissioners shall have given or caused to be given notice of their intention to act as aforesaid in such manor, the said Commissioners may, if they shall think fit, refrain from acting until the result of such proceedings shall appear: Provided also, That such proceedings shall

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not extend to the rights of the lord in mines or minerals, or his reversionary interest on the termination of any grant for life or lives, or other term without right of renewal, unless with such consent as here inbefore provided for a voluntary agreement.

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39. Commissioners to require information from Steward.

And be it Enacted, That in every case in which the said Commissioners shall intend proceeding towards such enfranchisement, they shall require the steward of the manor, or the lord, where there shall be no steward, to furnish them with a particular or schedule as or to the effect hereinbefore required to be furnished in the case of voluntary 10 enfranchisement for the purpose of apportionment, and which shall contain a statement of the claim which such steward makes for compensation on such intended enfranchisement, and also such further information as the said Commissioners shall from time to time require relative to the said manor, and which schedule and information the 15 said lord and steward respectively are required to furnish, and from time to time give in like manner and with and under the like powers and provisoes and penalties as are hereinbefore enacted with respect to voluntary enfranchisement; and a duplicate of such schedule and of such information, or so much thereof as the said Commissioners 20 shall direct, shall be kept by the said steward or lord within the said manor, or a parish wherein part of the lands copyhold thereof are situate, for inspection by all interested parties for such periods as the said Commissioners shall from time to time direct, and in default of such direction during the whole period which shall intervene between 25 the sending such schedule and information to the said Commissioners. and the first meeting to be held as hereinafter mentioned; and the said Commissioners shall furnish such steward or lord with forms of notice of objection to such schedule, and which shall be delivered by such steward or lord to all interested parties upon request.

And be it Enacted, That forthwith after receipt of such schedule and information, the said Commissioners shall cause notice to be given, in such manner as they may deem expedient, of the said duplicate remaining in the hands of the said steward or lord for the inspection of any person interested; and shall also in such notice appoint some 35 convenient place and such time or times as they shall think necessary (the first not earlier than Twenty-one Days from the first giving of such notice) for holding a meeting to hear objections to the said schedule by any person interested, and who shall give Five Days' previous notice in writing to the said steward of the ground of 40 such objection, and to appoint valuers as after mentioned; and the said Commissioners or some Assistant-commissioner shall at such meeting hear and determine any objections which may be then and there so made, or adjourn the further hearing thereof, if they or he should think proper, to a future meeting; and at such meeting or 1 22. adjourned

Notice of Inspection and meeting to to Steward's Schedule, and to appoint Valuers.

adjourned or subsequent meeting (such subsequent meeting to be called in like manner, or otherwise as hereinbefore provided in the case of voluntary enfranchisements) such objections shall be heard and determined, and such amendments made in the said schedule as shall be necessary by reason of such objections, or the deaths of tenants, or other alterations, during the progress of such inquiries or meetings; and the amount of compensation to be paid to the steward shall also be determined at such meeting or meetings by the said Commissioners or Assistant-commissioner; and valuers shall be appointed as is hereinbefore provided on voluntary agreements, in cases where one-half the number of such valuers are to be appointed by the lords, and the other half by the tenants; and which valuers respectively, and their respective umpires (to be appointed in like manner as hereinbefore is provided with respect to voluntary agreements) shall make the like declaration, and act in like manner, and with the like powers, and under the like provisoes as if their appointments respectively had taken place under a voluntary agreement for enfranchisement, as hereinbefore mentioned and provided.

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In all cases under the Act, if Valuers not appointed in Six Months, or valuation not made in that period, Commissioners may appoint.

And be it Enacted, That if upon the expiration of Six calendar Months after the day of the first meeting for appointment of valuers in the cases lastly hereinbefore provided, or if within the like period from the confirmation of any voluntary agreement to be made as hereinbefore mentioned, no valuers shall have been appointed, or their valuation, apportionments or schedules (as the case may be) respectively shall not have been made and sent to the office of the said Commissioners, it shall be lawful for the said Commissioners from time to time to appoint such competent person or persons as they shall deem fit as valuer or valuers, with the like powers and duties, and whose costs and expenses shall be payable in like manner as is hereinbefore provided with respect to valuers to be appointed and acting under any voluntary agreement for enfranchisement.

42. Schedules of valuation to be inspected, and meeting held to hear objections.

And be it Enacted, That as soon as the said valuers shall have made such valuation and schedules and the same shall have been sent to the said Commissioners, they shall cause a copy thereof respectively to be deposited in the hands of the steward or lord, or other person, as hereinbefore provided with respect to the case of voluntary enfranchisement, for the inspection of all tenants and parties interested, and which inspection shall be allowed as fully, and in like manner and subject to the like provisoes and penalties as are hereinbefore enacted with respect to voluntary enfranchisement; and the said Commissioners shall in like manner cause notice to be given of, and hold, such meeting or meetings for hearing and determining objections to such schedules respectively, and shall proceed thereon, and to amend the same as is hereinbefore provided with respect to voluntary enfranchisements.

chisements, and shall in like manner from time to time make the requisite amendments in such schedule, in consequence of deaths or otherwise as aforesaid.

And be it Enacted, That the costs and expenses of such valuation Expens and schedules, and the costs of the apportionment after mentioned, shall be payable and paid in like manner as is hereinbefore provided with respect to costs and expenses under voluntary enfranchisements.

43.

And be it Enacted, That the said Commissioners shall also forthwith after such schedules respectively shall be so settled and amended, 10 cause an apportionment to be made of the sums to be paid by each tenant and otherwise in like manner as is hereinbefore provided with respect to voluntary enfranchisements, and shall cause a like apportionment to be made of the compensation (if any) payable to the steward or other officers of the manor, and of the costs of the proceedings; and the said Commissioners shall in like manner cause a schedule of such apportionment and a copy thereof to be made, and shall cause the like inspection thereof as is hereinbefore provided with respect to voluntary enfranchisements, and shall in like manner proceed to confirmation and engrossment thereof, and the 20 deposit of copies thereof, and of the schedules and papers relating thereto, with the steward of the manor and Clerk of the Peace in manner hereinbefore mentioned.

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And be it Enacted, That before confirmation of any such compul- Notice. sory enfranchisement, notice shall be given to such persons, and in 25 like manner on the same being required by the said Commissioners, as is hereinbefore provided with respect to voluntary enfranchisement.

> questioned after confir-

. And be it Enacted, That no confirmed valuation, apportionment Apportion. or schedule under any compulsory enfranchisement, shall be impeached after the confirmation thereof by reason of any mistake or informality 30 therein, or in any proceedings relative thereto, except with the consent of all parties interested therein.

And be it Enacted, That if any action or suit shall be depending, touching the right to or amount of any fines or other manorial payments or incidents, or any question shall arise thereon, or as to the boundary of any lands, or precise situation of such lands as shall be intermixed with other lands, or the exact quantity of such lands, or any difference shall arise whereby the proceedings to effect any such enfranchisement, whether voluntary or compulsory as aforesaid, shall be hindered, it shall be lawful for the said Commissioners or Assistantcommissioner to appoint a time and place in or near the manor for 122. hearing

hearing and determining the same, and to inquire into, hear and determine such right or amount, or such question or questions as aforesaid; and the decision of the said Commissioners or Assistantcommissioner at such meeting, or any adjourned or renewed meeting, shall, subject to the provisions hereinafter contained, be binding and conclusive on all persons to whom Twenty Days' notice of the time, place and intent of such meeting shall have been given or left at their usual place of abode, or left with the occupying tenant of the lands to which such meeting shall relate, his, her and their heirs, executors, administrators and assigns, and the successors of any body politic or 10 corporate; and such occupying tenant shall forthwith send such notice by post or otherwise to the party for whom the same was left, and in default of so doing shall be liable to the penalty of not less than Five Pounds, and not more than Twenty Pounds, to be recovered before two of Her Majesty's Justices of the Peace, on summary appli- 15 cation in manner hereinafter mentioned, and shall also be liable to pay and make good to such party all damage which he may sustain by such default, to be recovered with full costs of suit in an action in any of Her Majesty's courts of law at Westminster.

48. Subject to appeal by Issue at law, or in case stated.

Provided always, and be it Enacted, That any person claiming to 20 be interested in any lands, who shall be dissatisfied with any such decision of the said Commissioners or Assistant-commissioner, may, if the yearly value of the payment to be made or withholden according to such decision shall exceed the sum of Twenty Pounds, cause an action to be brought in any of Her Majesty's courts of law at Westminster against 25 the person in whose favour such decision shall have been made, within Three calendar Months next after such decision shall have been notified in writing, in such manner as the said Commissioners or Assistant-commissioner shall direct, to the parties interested therein, or to their known agents, in which action the plaintiff shall deliver a feigned issue, 30 whereby such disputed right may be tried, and shall proceed to a trial at law of such issue at the sittings after the term, or at the assizes then next, or next but one, after such action shall have been commenced, to be holden for the county within which the lands, or the greater part thereof, are situated, with liberty nevertheless for the 35 court in which the same shall have been commenced, or any Judge of Her Majesty's courts of law at Westminster, to extend the time for going to trial therein, or to direct the trial to be in another county, if it shall seem fit to such court or Judge so to do; and every defendant in any such action shall enter an appearance thereto, and 40 accept such issue; but in case the parties shall differ as to the form of such issue, or in case the defendant shall fail to enter such appearance or accept such issue, then the same shall be settled under the direction of the court in which the action shall be brought, or by any Judge of Her Majesty's courts of law at Westminster, and the plaintiff

plaintiff may proceed thereon in like manner as if the defendant had appeared and accepted such issue; and the parties in such action shall produce to each other, and their respective attornies or counsel, at such time and place as any Judge may order before trial, and also to the court and jury upon the trial of any such issue, all books, deeds, papers and writings, terriers, maps, plans and surveys relating to the matters in issue in their respective custody or power; and it shall be lawful for the Judge by whom any such action shall be tried, if he shall think fit, to direct the jury to find a verdict, subject to the 10 opinion of the court upon a special case; and the verdict which shall be given in any such action, or the judgment of the court upon the case, subject to which the same may be given, shall be final and binding upon all parties thereto, unless the court wherein such action shall be brought shall set aside such verdict, and order a new trial to 15 be had therein, which it shall be lawful for the said court to do if it shall see fit: Provided also, That in case any such decision shall involve a question of law only, and the parties in difference shall be agreed upon the facts relating thereto, and whereon such decision shall have been founded, the said Commissioners or Assistant-com-20 missioner, at the request of the person dissatisfied (such request to be made in writing within Three calendar Months after such decision, and at least Fourteen Days' previous notice in writing of such request to be given in like manner to the other parties in difference, or to their known agents), shall direct a case to be stated for the opinion of such one of Her Majesty's courts of law at Westminster as the said Commissioners or Assistant-commissioner shall think fit; which case shall be settled by them or him, or under their or his direction, in case the parties differ about the same, and may be set down for argument, and be brought before the court in like manner as other cases are brought before the court; and the decision of such court upon every case so brought before it, shall be binding upon all parties concerned therein: Provided always, That after such verdict given and not set aside by the court, or after such decision of the court, the said Commissioners or Assistant-commissioner shall be bound by such verdict or decision; and the costs of every action, or of stating such case and obtaining a decision thereon, shall be in the discretion of the court in or by which the same shall be decided, which may order the same to be taxed by the proper officer of the court; and the like execution may be had for the same, as if such costs had been recovered upon a judgment of record of the said court.

And be it Enacted, That no proceedings of or before the said Com- Proceedings missioners or Assistant-commissioner, or in any action, or in any case not to abate by death of stated or reference in pursuance of this Act, shall abate or cease by parties. reason of the death of any person interested therein.

And

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In case of death of parties before actions brought, &c. the same to be brought and carried on in their names.

And be it Enacted, That if any person in whose favour any such decision of the said Commissioners, or any Assistant-commissioner, shall have been made, shall die before any such action shall have been brought or case stated, and before the expiration of the time hereinbefore limited for that purpose, it shall be lawful for any person who might have brought such action, or have had such case stated against the person so dying, to bring or have the same within the time so limited as aforesaid, nominally against such person, as if living, and to serve the said Commissioner or Assistant-commissioner with process, and notices relating thereto, in the same manner as the person 10 deceased might have been served therewith if living; and it shall be lawful for every person entitled to the benefit of such decision as aforesaid, or in case of any such person being a minor, idiot, lunatic, feme covert, beyond the seas, or labouring under any other legal disability, the guardian, trustee, committee of the estate, husband or attorney 15 respectively, or in default thereof such person as may be nominated for that purpose by the said Commissioners, and whom they are hereby empowered to nominate, under their hands and seal, to appear and defend such action, or argue such case, and proceedings shall be had therein, in the like manner, and the rights of all persons shall be equally bound 20 and concluded by the event of such action, or the decision of such case, as if such person had been living, or free from disability; and the costs of every such action or case shall be in the discretion of the court, as aforesaid.

51. Statute of Limitations not to be affected.

Provided always, and be it Enacted, That nothing in this Act con- 25 tained shall revive any right to fines or other manorial claims which now are or hereafter shall be barred by any law in force for the limitation of actions or suits.

52. Power to examine Witnesses, call for papers, &c. where agreement has been signed by two-thirds in value of lands.

And be it Enacted, That the said Commissioners, or any Assistantcommissioner, may, by summons under their or his hands or hand, 30 require the attendance of all such persons as they or he may think fit to examine, upon any matter brought before them or him, or respecting which they or he have or hath power to act as hereinbefore mentioned, relating to the enfranchisement of copyhold or customary freehold lands, or the discharge of any manorial rights, 35 and also make any inquiry, and call for any answer or return as to such matter, and also administer oaths, and examine all such persons upon oath, and cause to be produced before them or him, upon oath, all deeds, documents and writings, books, court-rolls, rentals, contracts, agreements, accounts, writings, papers, maps, 40 plans and surveys, or copies thereof respectively, in anywise relating to any such matter; Provided always, That no such person shall be required, in obedience to any such summons, to travel more than Ten Miles from the place of his abode to give evidence, or produce any

deeds,

deeds, papers or writings relating to the title of any lands, unless such production shall appear to the said Commissioners or Assistantcommissioner essentially requisite in making the inquiries to be made under this Act.

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53. Expenses of Witnesses,&c.

And be it Enacted, That the said Commissioners or Assistant-commissioner, in any case where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, court rolls, contracts, accounts or writings, maps, plans and surveys, or copies thereof, and all other expenses (except the salaries or allowance 10 to any of the said Commissioners or Assistant-commissioner provided for as aforesaid) incurred in the settlement of any suit or difference, or in the hearing or determining any objection, valuation, schedule or apportionment before the said Commissioners or Assistant-commissioner, to be paid by such parties interested in the production thereof 15 respectively, or in the event of such suit, difference or objection, and to such person or persons, and in such proportions as the said Commissioners or Assistant-commissioner may think fit and reasonable.

And be it Enacted, That the expenses of valuations, and other expenses necessary in the making any enfranchisement as aforesaid, 20 except when otherwise provided by this Act, shall be paid by the tenants, or by the tenants and lords, in such proportions as the said Commissioners shall in the confirmed apportionment, or otherwise, under their hands and seal direct; and that if any difference shall arise touching the amount of the said expenses, or the share thereof to be paid 25 by or to any person, it shall be lawful for the said Commissioners or Assistant-commissioner to certify under their or his hands or hand the amount to be paid by or to such person; and in case any person shall refuse or neglect to pay the amount so certified or specified in such apportionment, to be payable from him immediately after notice 30 thereof, then upon production of such certificate or of either of the deposited copies under seal of the said apportionment before two of Her Majesty's Justices of the Peace for the county, riding, division or jurisdiction wherein the manor to which the same relates, or the greater part thereof in value as appearing in such apportionment, is 35 situate; and on proof of such refusal or neglect, such Justices are hereby authorized and empowered by warrant under their hands and seals to cause the same, and the costs of application and distress, to be levied by distress and sale of the goods of the person liable to pay the same, and to render the surplus (if any), after deducting the 40 costs of distress and sale, to the person distrained upon.

And be it Enacted, That if such expenses shall not be levied under Action for the said distress within Two Months after the said warrant shall be granted, it shall be lawful for the person entitled to the said expenses 122.

expenses (if the same shall with the costs of application to such Justices amount to Forty Shillings or upwards), and his executors or administrators, to recover the same expenses and costs, with full costs of suit in an action of debt in any of Her Majesty's courts of law at Westminster against the party named in such warrant and certificate or apportionment as aforesaid, his executors or administrators; in which action such certificate or deposited copy of apportionment shall be satisfactory evidence of the amount of such expenses so awarded by the said Commissioners or Assistant-commissioner, and of the same being due for and to the parties therein named; and the certificate of such Justices under their hands on such warrant shall in like manner be evidence of the amount of costs of such application; and the production of such warrant (which in all such cases shall be allowed, and such certificate given by such Justices,) shall be satisfactory evidence of the non-recovery of such expenses and costs respectively under a distress.

56. Expenses of

And be it Enacted, That every tenant being a trustee, or not beneficially interested in the lands of which he stands admitted tenant, to be affected by any enfranchisement under this Act (save as against an unadmitted mortgagee), shall be entitled to recover in like manner by distress or action respectively all expenses, costs and charges which he may have to pay under or by reason of any such certificate, apportionment, distress or action from the person beneficially interested at the date of such apportionment in the said lands, his executors, administrators or assigns, or by a like distress on the said lands, and the occupier whereof shall be entitled to deduct any such payments out of any rent then or subsequently due; and should any dispute arise as to any trusteeship or right to such recovery, the same shall be determined by the said Commissioners or Assistant-commissioner in like manner as is hereinbefore provided with respect to other causes of dispute or difference arising under this Act, and their or his certificate shall be deemed satisfactory evidence of the facts therein stated, and the like evidence shall be produced before such Justices or in such action as is hereinbefore provided in other cases of distress.

57. Copyholders having limited interests may charge costs in certain cases.

And be it Enacted, That any tenant having a limited interest, and who shall pay any such expenses or costs, may with the consent of the said Commissioners under their hands, and by a simple entry on the court rolls of the manor, (and for which entry the steward shall only charge Thirteen Shillings and Sixpence, and which shall not be subject to any stamp duty) to charge such expenses and costs, with interest thereon, at the rate of Four Pounds per centum per annum on the copyhold lands to which the same shall relate; but so nevertheless that the principal charge on such lands shall be lessened in every year following such charge, by One-twentieth part at least of such original charge thereon, and shall be subject to previous mortgages.

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And be it Enacted, That the costs payable by Lords of Manors Exp having particular interests, or being trustees, shall with the expenses they may reasonably incur in employing agents to protect their interests or otherwise, (the amount of such expenses being subject to the approval of the said Commissioners or an Assistant-commissioner) be paid out of the first monies to be received out of the enfranchisements to be effected under this Act.

And be it Enacted, That from and immediately after the date of Lands to be the final confirmation of the apportionment, the several and respective enfranchise-10 lands shall stand charged and chargeable with the respective sums mentioned in such apportionment to be payable to the lord and steward or other officers respectively, with lawful interest for the same, from the day mentioned in the said apportionment until payment thereof respectively; and until such respective payment or payments, 15 the person or persons for the time being seised of the manor, shall be deemed to stand seised of the said lands as mortgagee in fee thereof, for the benefit of the lords, as to the sums payable to them, and of the said steward, or other officers, as to the sums payable to him or them, and at the option of the tenant, subject to the power of 20 continuing the charge as hereinafter provided, and that it shall and may be lawful for the person so seised, or the lords or stewards respectively, in his name from time to time to adopt such means and proceedings as a mortgagee in fee of freehold lands is entitled to for the enforcing payment of such principal sums and interest, 25 with the like right to obtain payment of all attendant and incident costs and expenses; and the lord shall have power to distrain on the lands in respect of which the said sum or sums shall be payable for the purpose of recovering payment of the interest that shall be due thereon, as fully and in like manner as if the same had been rent in 30 arrear.

And be it Enacted, That every such sum by this Act charged on any lands shall be a first charge on such lands, and shall have priority over all mortgages, charges and incumbrances whatsoever affecting such lands, notwithstanding such mortgages, charges and incumbrances shall have been or shall be respectively made and created before such sums respectively shall be charged on such lands.

60. To be first

And be it Enacted, That it shall be lawful for any tenant whose Power to lands shall be enfranchised under this Act, to charge the same (or any of them, provided he shall hold the whole thereof under the same right and the same estate) with the payment of such sums as aforesaid (and the costs of such charges), and lawful interest thereon respectively, to any person who shall advance and lend such sums on the security D 2 122.

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of the lands so to be charged, and his executors, administrators and assigns; and for securing the payment thereof with such interest, to demise the said lands by way of mortgage, for any term of years, to the person who shall lend such sums, his executors, administrators and assigns, or to such other person as he or they shall appoint, so as such demise be made with a proviso or condition declaring that such term shall be void, on payment of the amount thereby secured, with interest thereon, at a time to be therein appointed; and such charge shall have the like priority with the original charge under this Act, and with the powers and rights to which a first mortgagee would as mortgagee by demise be entitled.

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62. CLAUSE (B.) Power to Tenants for life, and Tenants whose lands are not of more than the annual value of 20 l., to defer payment of consideration for enfranchisement until the next event at which a fine would be payable.

And be it Enacted, That whenever any Tenant having only a life or other limited interest in his lands, or not holding lands of the annual value of more than Twenty Pounds, shall desire to defer the payment of the sum charged in respect of his lands or any part 15 thereof, and shall give notice of such desire under his hand to the Steward or Lord, as hereinbefore directed with respect to other notices, before the valuations, apportionments or schedules hereinbefore directed to be deposited for inspection shall have been amended and settled, it shall be lawful for the said Commissioners in their schedule 20 of apportionment, whether in the case of a voluntary or compulsory enfranchisement, to award that so much of the sum apportioned to any such Tenant as shall have been charged for enfranchisement from fines or other manorial rights, to which such Tenant would not have been liable thereafter during his tenancy, shall not be paid until the 25 period of the next act or event on which a fine or other such manorial right would have become payable or due to the Lord if the said lands had remained unenfranchised, and that within Six Months after such act or event the said sum shall become payable with such addition thereto as the said Commissioners shall direct: And be it also Enacted, That as soon as the said sum, with such addition thereto, shall become payable, the Lord or other person for the time being entitled to the benefit thereof, shall become entitled to the rents and profits of the land in respect of which the same shall be due, unless and until he shall have received notice that such sum is become payable, so that he may proceed to recover the same; and it shall be lawful for such Lord or other person to proceed to obtain possession of the said rents and profits, in like manner as if the said land had been lawfully seised into the hands of the Lord for non-payment of a fine, or other default of the Tenant; provided, that notice in writing, stating 40 the nature of such act or event as aforesaid, delivered by or on behalf of the Tenant to the Lord or other person entitled, or to the Clerk of the Peace, or other persons having the custody of the schedule of apportionment or award, shall be deemed sufficient notice that the said sum is become payable; and as soon as the said sum

sum is become payable, the land in respect of which the same shall be due, and the beneficial owner thereof for the time being, shall be subject to the like remedies for recovery thereof; and such sum shall become applicable in like manner, subject to any such allowance thereout as hereinafter provided, as if such land had not been previously enfranchised, and the payment for the same had not been deferred.

And be it Enacted, That for the purpose of freeing other tenants from the inconvenience to which in certain cases they might be sub-10 jected, by an immediate liability to payment of the sums to be awarded to the lord of the manor under this Act, it shall be lawful for such tenant, at any reasonable time, before final apportionment as aforesaid, (to be fixed by the said Commissioners, and in default of their fixing any other limit at any other time, or until within Ten Days next previous 15 to such apportionment), to declare by notice under his hand, to be delivered to the lord or steward as hereinbefore provided with respect to other notices, his desire that such compensation-money should remain a charge on the lands affected thereby, for any number of years not exceeding Fourteen Years, or as a tenant for life for the whole 20 period of his life and one year longer, and which notice the steward shall forthwith or with the said schedule of apportionment send to the said Commissioners, and thereupon the said Commissioners shall insert, in a column of such apportionment, to be appropriated to such purpose, the number of years or period for which such charge is to be 25 continued, and thereupon (subject as after mentioned) no proceedings shall be instituted during such time or period to enforce payment of the principal money so apportioned: Provided nevertheless, That interest after the rate of Four Pounds per centum per annum thereon shall be payable and paid half-yearly on the days to be mentioned 30 in such apportionment, or if not mentioned, then at the expiration of each half-year, computed from the date thereof; and nothing herein contained shall extend to protect any tenant or other person from such proceedings, in case interest for One Year and a half shall remain due on the principal sum apportioned or awarded, or on 35 any part thereof, to the amount of one-half: Provided also, That during the term or period so fixed, the lords shall not be compellable to receive payment of the principal money without receiving Twelve calendar Months' notice of the intention to pay off the same; and that in case the interest on such principal sum, or any part thereof, 40 shall at any time be in arrear or unpaid for Thirty Days after any half-yearly payment shall be due as aforesaid, it shall be lawful for the lord or party entitled for the time being to receive such interest money, to levy the same by distress and sale of the goods on the lands and tenants enfranchised and affected by such enfran-

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63.
Power to tenants to defer payment of consideration for enfranchisement.

chisement.

chisement, or any of them, as fully and in like manner as if the same had been rent in arrear, and subject to recovery by distress.

64. To whom monies for enfranchisement from Lords' rights to be paid. Money paid for entranchisement amounting to £. 200, in certain cases to be paid into the Bank of England under the 1 Geo. 4, c. 35.

And be it Enacted, That all monies to be paid under this Act for enfranchisement from the lord's right shall be paid to the lord of the manor, his heirs or assigns, where he shall be absolute owner of the manor, and where such lord for the time being shall be only entitled for a limited estate or interest therein, or shall be under any legal disability, such money, subject to any allowance which may be made thereout in respect of deferred payments hereinafter mentioned, shall, in case the same shall amount to or exceed the sum of Two 10 hundred Pounds, with all convenient speed, be paid into the Bank of England in the name and with the privity of the Accountant-General of the Court of Exchequer, to be placed to his account there "ex parte The Copyhold Enfranchisement Commis-SIONERS," pursuant to the method prescribed by an Act passed 15 in the first year of the reign of his late Majesty King George the Fourth, intituled, "An Act for better securing Monies and Expenses paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for other purposes, and the general Orders of the said Court," and without fee or reward; and 20 shall, when so paid in, therein remain until the same shall, by order of the said Court, made in a summary way, upon petition to be presented to the said Court by the person or persons who would have been entitled to the rents and profits of the said manor had no such enfranchisement been made as aforesaid, be applied in the 25 purchase of a redemption of the land tax, or in or towards the discharge of any debt or other incumbrance affecting the said manor, or affecting other lands standing settled therewith, to the same or the like uses, trusts, intents or purposes; as the said Court of Exchequer shall authorize to be purchased or paid, or such part thereof as shall 30 be necessary, or until the same shall upon the like application be laid out by order of the said court, made in a summary way as aforesaid, in the purchase of lands which shall be conveyed, limited and settled to, for and upon such and the like uses, trusts, intents and purposes as the said manor or such of them as at the time of making 35 such conveyance and settlement shall be existing, undetermined and capable of taking effect; and in the meantime and until such purchase can be made, the same money may, by order of the said court, upon application thereto, be invested by the said Accountant-General in his name in the purchase of Three Pounds per centum Consoli- 40 dated Bank Annuities, or Three Pounds per centum Reduced Bank Annuities, or in Government or real securities; and in the meantime and until such annuities or securities shall be ordered by the said court to be sold for the purposes aforesaid, or shall be called in

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or cancelled, the dividends or interest, and annual produce thereof. shall from time to time, by order of the said court, be paid to the person or persons who would for the time being have been entitled to the rents and profits of the said manor, had no enfranchisement been made as aforesaid.

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Provided always, and be it Enacted, That if any money to be be paid for the enfranchisement from the lord's rights shall be less than the sum of Two hundred Pounds and shall exceed the sum of Twenty Pounds, after such allowance for deferred payments as afore-10 said, then the same shall at the option of the respective parties for the time being entitled to the said manor, the right of which shall be enfranchised, or of their respective husbands, guardians or committees in case of coverture, infancy, idiotcy, lunacy or other incapacity, be paid into the Bank of England in the name and 15 with the privity of the said Accountant-General, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore directed, or otherwise the same may be paid at the like option to two trustees to be nominated by the respective parties exercising such option; and such nomination and approbation to be signified in writing 20 under the hands of the nominating parties; and the money so paid to such trustees, and the dividends and produce so arising therefrom, shall be by such trustees applied in like manner as is hereinbefore directed with respect to the money to be paid into the Bank of England in the name of the Accountant-General of the Court of 25 Exchequer.

> 66. above £. 20.

Provided also, and be it further Enacted, That when any money so When not to be paid as last hereinbefore mentioned shall not exceed the sum of Twenty Pounds for all the enfranchisements in such manor, the same shall be paid to the respective parties for the time being entitled to 30 the said manor, for his own use and benefit, or in case of coverture, infancy, idiotcy, lunacy or other incapacity, then such money shall be paid for their use to their respective husbands, guardians, committees or trustees; and in case any dispute shall arise as to the proper application of any enfranchisement money, according to the intention of this 35 Act, it shall be lawful for the said Commissioners to decide such question, and their decision shall be final and conclusive thereon.

And be it Enacted, That where the lord of the manor shall be only entitled for a limited estate or interest therein, and the said Commissioners shall have deferred payment of any sum or sums for enfranchisement under the powers hereinbefore contained, so that instead of such lord receiving a certain sum or the interest thereon forthwith, he or the tenants for life. ment under the powers hereinbefore contained, so that instead of such lord for the time being shall become entitled at a future period to the said deferred sum, with an addition thereto on account of the fine D 4 which 122.

67. CLAUSE (C.) Where pay-ments are deferred by Tenants, prowhich would have become payable on the act or event fixing such period, or with an addition thereto on any other account, it shall be lawful for the said Commissioners to award and direct that out of the money payable or chargeable forthwith for enfranchisement of any lands in such manor, a certain sum of principal money shall be paid to or charged in favour of such lord, as if he were absolute owner of such manor, and such principal sum shall be paid or charged accordingly; and in case it shall happen that there shall be no money payable forthwith for enfranchisement, or not sufficient for making such allowance to the lord as aforesaid, or with the consent of the lord, in any case it shall be lawful for the said Commissioners to award and direct that so much of the sum payable at a future period as they shall think adequate to his interest, shall become his absolute property, and shall be paid or charged accordingly.

68. Payment to Steward.

And be it Enacted, That all sums payable under this Act for compensation to the steward, shall be paid to him, his executors or administrators.

69. Receipts to discharge, &c.

And be it Enacted, That the receipts of the persons to whom any sums of money shall be paid pursuant to this Act, shall be sufficient discharges for the same, and the person making such payment shall not be liable to see to the application of any such sums, or be answerable for the misapplication or non-application thereof; and for the better evidencing such payment, the steward for the said manor for the time being, shall, as to steward's compensation, forthwith after payment thereof, and as to the payments for enfranchisement from the lord's rights, forthwith after production of receipt for the same, signed by the party entitled to sign the same, enter on the copy apportionment, to be deposited with him as aforesaid, a memorandum of such payment, and which memorandum shall, in like manner as such receipt, be deemed sufficient evidence of such payment, and discharge the lands, and the person paying the same, from the sums mentioned to be paid.

70. Lands to become freehold, subject, &c.

And be it Enacted, That from and after such final confirmation of the apportionment, the several lands therein comprised and enfranchised shall become and be in all respects of freehold tenure, but subject to the payment of the enfranchisement consideration in favour of the lords and steward, or other officer as aforesaid, and all mortgages affecting the same shall be deemed and become mortgages in fee of the same lands (if such enfranchisement consideration shall be paid off); and if not so paid off, mortgages in fee of the equity of redemption thereof, subject to such mortgage interest as aforesaid for securing such consideration: Provided always, That nothing herein contained shall operate to deprive any tenant of any commonable right to which he

Commonable Rights to remain.

may

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may be entitled in respect of such lands; but such right shall continue attached thereto, notwithstanding the same shall become freehold: Provided also, That no such enfranchisement or conversion into freehold shall affect, except as aforesaid, any mortgage, or defeat the beneficial limitations of any will or settlement theretofore executed, or alter the descent or distribution of any estate or interest in land on the decease of any tenant or person entitled thereto in possession or remainder at the time of such enfranchisement or conversion.

And be it Enacted, That nothing in this Act contained shall operate to affect any rights of lords of manors to escheats, fairs, markets, appointments, franchises, royalties, rights, liberties and privileges of chase and free warren, hunting, hawking, fowling, and of chasing and killing game and beasts of chase and free warren, and all ancient piscaries, fisheries and rights of fishing, or any rights in mines and minerals within or under the said lands and hereditaments, unless expressly commuted under this Act, and save that all persons whose lands shall remain subject to manorial rights in mines and minerals, shall have full right and liberty to dig for, raise and get in or upon their respective lands, any stones, lime, clay, brick, earth, turf or peat to and for his and their own absolute use and benefit.

71. Other rights of Lords not to be affected.

And be it Enacted, That all lands which shall be enfranchised under this Act shall be deemed to be held under the same title, up to the time of such enfranchisement, and shall not be subject to any estates, rights, titles, interests, incumbrances, claims or demands affecting the manor of which the same were holden.

72. Substituted Titles.

And be it Enacted, That for the purpose of enabling the lords and tenants of manors to effect enfranchisements, either general or partial, with less expense and delay than may be caused by the proceedings hereinbefore directed, it shall be lawful for the lord of any manor, 30 whatever may be his interest therein, with the consent of the said Commissioners under this Act, at any time or times before such agreement for enfranchisement as aforesaid shall be entered into, to enfranchise all or any of the lands holden of his manor, in consideration of such a sum or sums of money, whether payable forthwith, or at a future time, as shall be agreed to be paid by the tenant or tenants whose lands are to be enfranchised; and it shall be lawful for any tenant, whatever may be his interest, with the like consent of the said Commissioners under this Act, to accept such enfranchisement on the terms so agreed on; and whenever so many as Twelve Persons being tenants, or all the 40 tenants of any manor, shall at the same time agree with the lord for the enfranchisement of their lands, then it shall be lawful to effect such enfranchisement by a schedule of apportionment to be confirmed and sealed by the said Commissioners under this Act, and all the pro-122. visions

Power to Lords and tenants to enfranchise before agreement under Act.

visions hereinbefore contained for carrying into execution an apportionment made by valuers, pursuant to a voluntary agreement as aforesaid, and for the enfranchisement of all the lands holden of a manor, shall be applicable to the case of an enfranchisement between the lord and such number of his tenants as aforesaid, save that the said Commissioners shall not make any alterations or amendments in such schedule or the terms of such enfranchisement without the consent of the parties interested therein: Provided always, That whenever the estate of any party to such enfranchisement shall be less than an estate of fee-simple in possession, or corresponding copyhold or cus- 10 tomary estate, notice in writing shall be given by or on behalf of such party to the person next entitled in remainder or reversion to the manor or land to be affected by such enfranchisement, so that the assent or dissent, or acquiescence of such person entitled in remainder or reversion, may be stated in writing to the said Commissioners when 15 such a schedule of apportionment as aforesaid shall be sent to them, but the said Commissioners shall notwithstanding cause such further notices to be given and such other inquiries to be made as they shall deem fit before confirming such apportionment.

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74 How such Eufranchisement may be effected.

And be it Enacted, That if such agreement for enfranchisement as 20 last-mentioned shall not be entered into by all the tenants of the manor, or their number shall be less than Twelve, or whatever may be the number, if the parties shall think fit, an enfranchisement may be effected, with the consent of the said Commissioners, by such convevance, deed or assurance as would or might be adopted for effecting 25 such enfranchisement if the lord were seised of the manor for an absolute estate of inheritance in fee simple in possession, and in such case the sum or sums to be paid for enfranchisement shall be paid and applied in like manner as is hereinbefore provided with respect to consideration monies for other enfranchisements under this Act, and 30 with the like provisions for discharge after receipt given for the same, and for substitution of title, retention of rights and otherwise as hereinbefore provided.

75. Agreements, Contracts and Awards not to be liable to Stamp Duties.

And be it Enacted, That no agreement, award or power of attorney made or confirmed or used under this Act, shall be chargeable with 35 any stamp duty.

76. Correspon-dence of Commissioners relating to this Act, to be free of postage.

And be it Enacted, That the said Commissioners may receive and send by the General Post, from and to places in England and Wales, all letters and packets relating exclusively to the execution of this Act, free from the duty of postage, provided that such letters and 40 packets as shall be sent to the said Commissioners be directed to the "Copyhold Enfranchisement Commissioners" at their office in London, and that all such letters and packets as shall be sent by the said Commissioners

missioners shall be in covers, with the words "Copyhold Enfranchisement Commissioners" printed on the same, and be signed on the outside thereof under such words with the name of such person, in his own hand-writing, as the said Commissioners, with the consent of the Lords Commissioners of the Treasury, or any Three or more of them, shall 5 appoint (such name to be from time to time sent to the Secretary of the General Post-office in London,) and be sealed with the seal of the said Commissioners, and under such other regulations as the said Lords Commissioners, or any Three or more of them, shall think fit; and if 10 the person so to be appointed shall subscribe or seal any letter or packet whatever except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself know to relate exclusively to the execution of this Act, or if the person so to be appointed or any other person shall send or cause to 15 be sent under any such cover any letter, paper or writing, or any enclosure, other than shall relate exclusively to the execution of this Act, every person so offending shall forfeit and pay the sum of One hundred Pounds, and be dismissed from his office; one moiety of such penalty shall be paid to the use of Her Majesty, Her heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same; and every such penalty may be sued for and recovered in any of Her Majesty's Courts of Record in Westminster.

And be it Enacted, That if any person under the provisions of this False evidence 25 Act shall wilfully give false evidence, he shall be deemed guilty of Perjury. Perjury; and if any person shall make or subscribe a false affidavit or declaration for the purposes of this Act, he shall suffer the penalties of Perjury; and if any person shall wilfully refuse to attend in obedience to any lawful summons of any Commissioner or Assistant-30 commissioner, or to give evidence, or shall wilfully alter, withhold, destroy or refuse to produce any book, deed, contract, agreement, account or writing, terrier, map, plan or survey, or any copy of the same, which may be lawfully required to be produced before the said Commissioners or Assistant-commissioner, he shall be deemed guilty 35 of a Misdemeanor.

Withholding evidence a Misdemea-

And be it Enacted, That no action or suit shall be commenced Limitation of against any Commissioner, Assistant-commissioner, Justice of the Peace, valuer, umpire or surveyor for any thing done under the authority of this Act, until Twenty-one Days' notice thereof shall have been 40 given in writing to the party against whom such action or suit is &c. intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after Three calendar Months shall have expired from the commission of the act for which such action or suit shall be so brought; and every such action 122.

78. Actions against Com. missioners, Assistant. commissioners, Justices,

shall be brought, laid and tried in the county or place where the cause of action shall have arisen, and not in any other county or place: and if it shall appear that such notice of action or suit was brought before Twenty-one Days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the jury shall find a verdict for the defendant therein, or the court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and 10 if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit or suffer a discontinuance of such action, or if upon any demurrer in such action or suit, judgment shall be given for the defendant therein, then such defendant shall 15 have costs, charges and expenses as between attorney and client.

79. Proceedings under this Act not to be quashed for want of form, nor to be removed by certioraris

And be it Enacted, That no order, adjudication or proceeding made or had by or before the said Commissioners or any Assistant-commissioner under the authority of this Act, or any proceeding to be had touching any offender against this Act shall be quashed for want 20 of form, or be removed or removable by certiorari or any other writ or process into any of Her Majesty's Courts of Record at Westminster or elsewhere.

80. Limits of Act.

And be it Enacted, That this Act shall extend only to England and Wales.

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81. Act may be altered this Session.

And be it further Enacted, That this Act may be amended, or repealed by any Act to be passed in this present Session of Parliament.

82.
Interpretation
Clause.

And be it Enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context 30 repugnant to such construction, the word "manor" shall extend to a manor or reputed manor, of whatever tenure the same may be; the words "lord" and "steward" shall include the person or persons for the time being filling those respective characters, or acting in those respective capacities, whether those persons shall be rightfully or 35 lawfully entitled to fill such characters, or act in such capacities, or not; the words "tenant" or "tenants" shall comprise all persons holding by copy of court roll, or as customary tenants, or holding lands subject to any manorial rights, and whether holden to them and their heirs, for life or for years; the words "land" or "lands" shall 40 extend to and comprise lands holden by copy of court roll, or by custom of any manor, whether in fee or for life or lives, or for years, renewable

renewable in any way whatsoever, and shall also comprise all lands holden of a manor subject to any manorial rights, and shall extend to messuages, tenements and hereditaments, subject to manorial rights, whether corporeal or incorporeal, or any undivided part or share therein; the word "enfranchisement" shall mean and include the commutation or discharge of all lands holden of a manor from heriots or any other manorial right; the word "person" shall mean and include The Queen's Majesty, and any body politic or corporate or collegiate, as well as an individual; and every word importing the singular number only shall mean and include several persons or parties, as well as one person or party, and several things as well as one thing, respectively, and the converse; and every word importing the masculine gender only shall mean and include a female as well as a male.

Copyholds Enfranchisement.

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[AS AMENDED BY THE COMMITTEE]

For the Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights.

(Prepared and brought in by
Mr. James Stewart, Mr. Attorney-General
and Mr. Freshfield.)

Ordered, by The House of Commons, to be Printed,
22 March 1839.

 $[Price\ 6d.]$

122.

-2 Vіст. 5 June 1859.-





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[AS AMENDED ON RE-COMMITMENT]

For the Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights.

[N.B.—The Clauses marked (A.) and (B.) were added by the Committee; and those marked (C.) to (E.), on the Re-commitment.]

perendient to facilitate the Enfran- Preamble. chisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights; Be it therefore Cnacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT "THE TITHE COM-MISSIONERS FOR ENGLAND AND WALES," for the time being, shall be the Commissioners for carrying this Act into execution; and 10 that should the same be not fully carried into execution before the duties of the said Tithe Commissioners shall cease, or should the said Commissioners or any of them decline to carry this Act into execution, it shall be lawful in any such case for one of Her Majesty's Principal Secretaries of State to appoint any number of fit persons 15 to be Commissioners to carry this Act into execution, in the place of such Commissioner or Commissioners so ceasing or declining to act, either solely or jointly with the remaining or continuing Commissioners, as occasion may require, and at pleasure to remove any one or more of the Commissioners so appointed or acting, so that the 20 number of Commissioners shall never exceed Three; and upon every vacancy in the office of Commissioner some other fit person shall be appointed to the said office in like manner; and until such appointment it shall be lawful for the continuing Commissioners or Commissioner to act as if no such vacancy had occurred.

286.

And

2. Style of Commissioners.

To have Com-

mon Seal.

And be it Enacted, That the Commissioners acting in the execution of this Act shall be styled "THE COPYHOLD ENFRANCHISEMENT COMMISSIONERS," and shall have their Office in London or Westminster; and they or any Two of them may sit from time to time, as they deem expedient, as a Board of Commissioners for carrying this Act into execution; and the said Commissioners shall cause to be made a Seal of the same Board, and shall cause to be sealed or stamped therewith all agreements, and awards or apportionments confirmed by the said Commissioners in pursuance of this Act; and all such agreements, awards, apportionments and other instruments proceeding from the said Board, or copies thereof, purporting to be sealed or stamped with the seal of the said Board, shall be received in evidence, without any further proof thereof; and no agreement, award or apportionment shall be of any force unless the same shall be sealed or stamped as aforesaid.

Instruments sealed to be received in

evidence.

3. Commissioners to report to Secretary of State.

AnnualReport to be laid Parliament.

And be it Enacted, That the said Commissioners shall from time to time give to any one of Her Majesty's Principal Secretaries of State such information respecting their proceedings, or any part thereof, as the said Principal Secretary of State shall require, and shall once in every year send to one of the Principal Secretaries of 20 State a general Report of their proceedings; and every year such general Report shall be laid before both Houses of Parliament, within Six Weeks after the receipt of the same by such Principal Secretary, of State, if Parliament be sitting, or if Parliament be not sitting, then within Six Weeks after the next meeting thereof.

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such

Power to appoint and remove Assistant-commis-Secretary, &c.

And be it Enacted, That it shall be lawful for the said Commissioners, from time to time, to employ such of the Assistant-commissioners appointed under the provisions of an Act passed in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, and intituled, "An Act for the Commutation of Tithes in England and Wales," as they shall see fit, or to appoint a sufficient number of other persons to be Assistant-commissioners, and also a Secretary assistant-secretary, and all such clerks, messengers and officers as they shall deem necessary, and to remove such Assistant-commissioners, Secretary, assistant-secretary, clerks, messengers or officers, or any of them, and on any vacancy in any of the said offices to appoint some other person to the vacant office; and the persons so employed or appointed shall assist in carrying this Act into execution, at such places and in such manner as the said Commissioners may direct: Provided always, That the said Commissioners shall not appoint more than Five such Assistant-commissioners to act at any one time, unless the Lord High Treasurer, or any Three or more of the Commissioners of Her Majesty's Treasury, shall, in the case of each such appointment, consent thereto: Provided further, That the number of

such clerks, messengers and officers shall be subject to the like consent.

And be it Enacted, That no Commissioner or Assistant-commissioner appointed as aforesaid shall, during the continuance of such office, be capable of being elected or of sitting as a Member of the House of Commons.

5.
No Commissioner to sit in House of Commons.

And be it Enacted, That no Commissioner or Assistant-commissioner, Secretary or other officer or person so to be appointed, shall hold his office for a longer period than Five years next after the day of the passing of this Act, and thenceforth until the end of the then next Session of Parliament; and after the expiration of the said period of Ten years and the then next Session of Parliament, so much of this Act as authorizes such appointment shall cease.

6.
Operation of Act as to Appointments, limited to Five years.

And be it Enacted, That the salaries of the Commissioners, the 15 allowance to the Assistant-commissioners, and the salary of the Secretary, Assistant-secretary, clerks, messengers and other officers to be appointed under this Act, shall be from time to time regulated by the Lord Treasurer, or the Commissioners of Her Majesty's Treasury, or any Three of them: Provided always, That the salary of 20 a Commissioner shall not exceed the sum of One thousand Five hundred pounds a year, including any salary to which he may be entitled under the said Act of his late Majesty King WILLIAM the Fourth, nor the allowance to an Assistant-commissioner the sum of Three pounds for every day that he shall be actually employed or 25 travelling in the performance of the duties of his office, including any allowance to which he may be entitled under the said Act, nor the salary of the Sccretary or Assistant-secretary the sum of Eight hundred pounds a year, and that the salaries of the clerks, messengers and other officers shall be in fit proportion: Provided also, 30 That the said Lord Treasurer or Commissioners may allow to any Commissioner or Assistant-commissioner, Secretary, Assistant-secretary, clerk, messenger or other officer, any such reasonable travelling or other expenses as may have been incurred by him in the performance of his duties under this Act, in addition to his salary or allowance

7• Salaries and Allowances.

And be it Enacted, That the salaries, allowances, and travelling and other expenses of the Commissioners, Assistant-commissioners, Secretary, Assistant-secretary, clerks, messengers and officers as aforesaid, and all other incidental expenses of carrying this Act into execution not hereinbefore otherwise provided for, shall be paid by the Lord Treasurer, or the Commissioners of Her Majesty's Treasury, out of the Consolidated Fund.

8. To be paid out of Consolidated Fund

35 respectively.

9.
Peclaration of
Commissioners, &c.

And be it Enacted, That every Commissioner shall, before he shall enter upon the execution of his office, make the following Declaration before one of the Judges of Her Majesty's Courts of Queen's Bench or Common Pleas, or one of the Barons of the Court of Exchequer; (that is to say)

"I, [A. B.,] do solemnly declare, That I will faithfully, impartially and honestly, according to the best of my skill and judgment, fulfil all the powers and duties of a Commissioner under an Act passed in the year of the reign of Queen Victoria, intituled, [here set forth the Title of this Act.]"

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And that every such Assistant-commissioner shall, before he shall enter upon the execution of his office, make the like declaration (substituting the words "Assistant-commissioner" for the word "Commissioner"), before such Judge or Baron, or before any two Justices of the Peace for the county, riding, division, liberty or jurisdiction wherein such Assistant-commissioner shall be resident at the time of his appointment, or before a Master Extraordinary in Her Majesty's High Court of Chancery; and the appointment of every such Commissioner and Assistant-commissioner, with the time when, and the name or names of the Judge, Baron, Justices or Master Extraordinary before whom he shall have made the declaration as aforesaid, shall be forthwith published in the London Gazette.

10. Commissioners may delegate powers, &c.

And be it Enacted, That the said Commissioners may delegate to their Assistant-commissioners, or to any one or more of them, such of the powers hereby given to the said Commissioners, as the said Commissioners shall think fit, except the power to confirm agreements, awards or apportionments, or to frame forms of agreements and other instruments as hereinafter provided, or to do any act herein required to be done under the seal of the said Commissioners; and the powers so delegated shall be exercised under such regulations as the said Commissioners shall direct; and the said Commissioners may at any time recall or alter all or any of the powers delegated as aforesaid, and notwithstanding the delegation thereof may act as if no such delegation had been made; and all acts done by any such Assistant-commissioner, in pursuance of such delegated powers, shall be obeyed by all persons as if they had proceeded from the said Commissioners, and the non-observance thereof shall be punishable in like manner.

11. Manors and Lands vested in the Crown.

And be it Enacted, That whenever the ownership of any Manor or Lands to which the provisions of this Act are intended to apply is vested in Her Majesty, the First Commissioner of Her Majesty's Woods, Forests and Land Revenues for the time being, or in case such Manors or Lands shall be vested in Her Majesty in right of the Duchy of Lancaster, or of the Duchy of Cornwall, the Chan-

cellor of the Duchy of Lancaster, or the officers of the Duchy of Cornwall entitled to grant leases of lands, parcel of the Duchy of Cornwall, shall for the purposes of this Act be substituted instead of the owner of such manors or lands respectively.

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And be it Enacted, That whenever the lord or tenant of a manor, or any person interested in any question or right connected with any enfranchisement under this Act, shall be a minor, idiot, lunatic, feme covert, beyond the seas, or under any other legal disability, the guardian, trustees, committee of the estate, husband or attorney, respectively, 10 or in default thereof such person as may be nominated for that purpose by the said Commissioners, after due inquiry shall have been made by them as to the fitness of such person, and whom they are hereby empowered to nominate under their hands and seal, shall, for the purposes of this Act, be substituted in the place of such lord, tenant or 15 other person.

12. In case Lord or Tenants under disabilities.

And be it Enacted, That it shall be lawful for any lord or tenant of Agent may be a manor, or any other person interested in any enfranchisement under this Act by a power of attorney given in writing under his hand from time to time, to appoint an agent to act for him in carrying into exe-20 cution the provisions of this Act; and all things which by this Act are directed or authorized to be done by or in relation to any person, may be fully done by or in relation to the agent so duly authorized of such person; and every such agent shall have full power in the name and on behalf of his principal to concur in and execute any agreement, and 25 vote in any question arising out of the execution of this Act, and make any inspection and sign any notice of objection under the provisions of this Act; and every person shall be bound by the acts of any such agent, according to the authority committed to him, as fully as if the principal of such agent had so acted; and the power of attorney 30 under which the agent shall have acted, or a copy thereof authenticated by the signature of Two credible Witnesses shall at the first meeting under the Act attended by such attorney under such power, or whenever requested by the chairman or by any other interested party present at such meeting, be delivered to the chairman for the 35 time being, and the same or any like copy shall be appended to every agreement executed by any such attorney, and shall be sent with it to the office of the said Commissioners as hereinafter provided: Provided always, That if any person having made such an appointment shall deliver notice in writing of the revocation thereof to the chairman 40 at any such meeting, no act which shall be done by the person so appointed after the delivery of such notice, without a fresh appointment, shall bind the principal; and any such Power may be in the form following:

13. appointed by Power of

" Manor of in the County of " I, A. B. of, &c., Lord [or, Copyholder, Customary Tenant or Freeholder, as the case may be of the said Manor, do 286. hereby

hereby appoint C. D. of, &c., to be my lawful Attorney to act for me in all respects as if I myself were present and acting in the execution of an Act passed in the year of the reign of Her present Majesty, intituled, [here insert the title of this Act.] Dated this One thousand eight hundred and

(signed)

A. B."

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Meeting at which ford and a majority in number and Two-thirds in value may agree on terms of enfranchisement, which shall bind all. Twenty-one days' notice to be given, and to be twice advertised.

And be it Enacted, That any lord of any manor or tenant or tenants thereof whose interest respectively shall not be less than Onefourth of the whole annual value of the manor or lands holden thereof, $_{10}$ may call a meeting of the lords and tenants of such manor, by notice thereof in writing under his or their hands, to be affixed at least Twenty-one Days before such meeting on the principal outer door of the church of the parish within the limits of which the said manor or the greater part thereof in value extends, or on the door or on some conspicuous part of some house or building wherein the courts for the said manor are usually held, and to be twice at least within such Twenty-one Days inserted in some newspaper (or once in each of two newspapers generally circulated in the county within which the said manor or the greater part thereof as aforesaid extends,) for the purpose of making an agreement for the general enfranchisement of lands holden of such manor; and every lord and tenant, attending such meeting shall bear his own expenses of attendance; and the lord and tenants who shall be present at any such meeting called as aforesaid, such tenants not being less in number than a Majority of the tenants of such manor, and the interest of the lord and tenants in the manor and lands respectively not being less than Two-thirds of the annual value thereof respectively, computing the interest of tenants as hereinafter is provided, may proceed to make and execute such an agreement as is hereinafter mentioned for the enfranchisement of the lands holden of the said manor from all the manorial rights of the lord, except his rights (if any) in mines and minerals, and except his reversionary interest, if any, on the termination of any grant for life or lives, or other term, without right of renewal; and if expressly agreed between such lord and tenants, the enfranchisement may be made to extend to rights in mines and minerals, and to the reservation of any rights of way or other easements, for the winning or carrying away of mines or minerals, and to such reversionary interest, but otherwise shall not extend to or affect such rights or interest; and thereupon such agreement shall be reduced into writing, and a memorandum thereof shall be signed by the persons so agreeing to such enfranchisement, or by their respective agents.

15. Terms on which Agreement may be made.

And be it Enacted, That such agreement for enfranchisement from the rights of the lord may be entered into in any of the modes hereinafter mentioned; that is to say, either on payment to the

the lord of a sum certain for the enfranchisement of all the lands holden of the manor for which such meeting shall have been called, from all the lord's rights in such lands, or on payment of a sum certain for all arbitrary fines; a sum certain for all fines certain; a sum certain for all heriots in kind; a sum certain for all heriots certain; a certain number of years' purchase for quit and other manorial rents; a sum certain for all the lord's rights in timber; and if the lord shall be entitled to any other species of manorial right in such lands, except in mines and minerals or such reversionary interest, a sum certain for every such species of right; and two or more of such rights may be commuted for one sum certain, or it may be agreed that the sum or sums to be paid for enfranchisement as aforesaid, or any of them, shall be subject to increase or diminution by the valuers to be appointed as hereinafter mentioned, 15 to such an amount per centum as shall be therein expressed; or that the sum or sums to be paid for enfranchisement as aforesaid, or any of them, or the apportionment for each tenant, shall be fixed by such valuers, subject to the approbation of the said Commissioners; and all other provisions may be made for carrying into execution the intention of the parties and of this Act, so that nothing in such agreement contained (unless every tenant interested therein shall be a party thereto) shall exclude or prevent the exercise of the powers hereinafter contained for apportioning the sum or sums to be paid for enfranchisement according to the particular circumstances of each tenement, and for the 25 relief of tenants for life and other persons in the cases hereinafter provided for; and such agreement may provide for the costs of the proceedings under this Act, subject to the approbation of the said Commissioners, and may also fix the sum to be paid to the steward and other officers of the manor of which they will be 30 deprived by such enfranchisements, in order that the said Commissioners may be enabled to award compensation as hereinafter mentioned: Provided always, That if there shall be a separate commutation for any species of manorial right, each of such commutations shall require the concurrence of Two-thirds in interest 35 (computed as hereinafter mentioned) of the tenants liable to the right or rights so commuted, and in case of doubt or difference as to the sufficiency of such interest, the decision of the said Commissioners thereon shall be conclusive; and every agreement so made and executed, and confirmed in manner hereinafter mentioned, 40 shall be binding on all persons interested in such manor or lands.

And be it Enacted, That the said lord and tenants present at such Election of meeting shall elect a chairman (the vote of the lord being reckoned as equal to one-third of the whole number of votes, and the votes of Agreement. the tenants being reckoned individually), who shall forthwith proceed to take an account of the number and interest of the lord and tenants then **286.** present

present in person or by their agents; and in case it shall thereupon appear that the persons present at such meeting are not sufficient in number and interest, or a sufficient portion are not willing to make and execute such an agreement as shall be binding on all persons interested therein, it shall be lawful notwithstanding for any number of the persons present to make and execute a provisional agreement of the like form and tenor; and every such provisional agreement which shall be executed within Six calendar Months from the day of such meeting, by such persons as would have been sufficient in number and interest to make a binding agreement at such meeting, shall be as binding as if the same had been sufficiently executed at such meeting.

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17.
Proportional interest, how to be computed for purpose of voting.

And be it Enacted, That the proportional interest of the tenants, so far as relates to their power to make such agreement or provisional agreement, or to appoint valuers, or to give any notice to the said Commissioners or Assistant-commissioners, as hereinafter provided, shall be computed in manner hereinafter mentioned; that is to say, the interest of the tenants liable to fines arbitrary or uncertain in amount, shall be estimated according to the proportional sum at which their lands shall be rated to the relief of the poor in the parish or place wherein the same are situated, and if any lands shall not be distinctly rated to the relief of the poor, or the rating thereof cannot be ascertained at any such meeting, then the interest in respect thereof shall be estimated at such proportion, not exceeding two-thirds of the last fine paid on admission to the same lands, as the chairman at any such meeting shall consider nearest to the yearly value thereof; the 25 interest of tenants liable to fines certain, shall be estimated according to such rule as shall be specially made for the occasion by the said Commissioners on the application of the tenants, or, for want of such rule, as if the annual value of their respective lands were One-half of the amount of such fine certain; the interest of tenants liable to heriots in kind, shall in respect of such liability be estimated (unless otherwise specially directed by the said Commissioners) at One-fifth of the annual value of their respective lands, as nearly as the same can be estimated by the chairman at any such meeting, except that in every case wherein there shall be separate commutations for any manorial rights, the interest of the tenants liable to heriots in kind, so far as relates to the proportion necessary to make a commutation for such heriots binding on the whole, shall be estimated according to the number of heriots in kind to which they are respectively liable; the interest of tenants liable to manorial rights in timber, shall only be computed in respect of such liability, in case such rights shall not be included in the same commutation with fines or heriots in kind, when their interest (so far as relates to the proportion necessary to make any commutation for such rights binding) shall be estimated according to the value of the timber standing on their respective

respective lands, after a sufficient allowance shall have been made for such timber or trees as might be cut for repairs or without payment of a fine; and the interest of tenants liable to any other manorial rights shall not be computed in respect of such liability, unless for the purpose of making a separate commutation, when their interest in respect of such liability shall be estimated in such manner as the said Commissioners shall direct; and the interest of no person shall be computed in respect of a copyhold estate who has not been admitted tenant thereof according to the custom of the manor, or who has made an absolute surrender of all his estate and interest therein; and it shall be lawful for the said Commissioners to make special rules respecting the computation of the interests of tenants liable to fines certain, heriots, rights in timber and other manorial rights, on the application or with the consent of a majority of the 15 parties interested and previous to the execution of any agreement. and such rules shall have the same force as if made by this Act.

And be it Enacted, That in case an adjournment of the said meeting shall for any cause be desired by a majority in number of the persons attending such meeting, the chairman shall adjourn the meeting to any time and place then by him to be declared, and so from time to time, in case the same shall be in like manner desired by a majority of the persons attending such meeting as aforesaid; and notice of every such adjourned meeting shall be given, under the hand of the chairman, and shall be affixed in a conspicuous place on the outside of the building in which such meeting, or the last adjournment thereof, shall have been holden, and once advertised in a newspaper as aforesaid; and the like order of proceeding shall be observed at any such adjourned meeting shall be as valid as if done at the original meeting.

18.
Meeting may
be adjourned,
Notice being
given.

And be it Enacted, That every such agreement shall bear date on the day on which the first signature is attached thereto, or to the minutes thereof, and shall be in such form as the Commissioners shall from time to time direct, or to the like effect.

19.
Agreement to be in the form which Commissioners shall direct.

And be it Enacted, That the said Commissioners shall frame and cause to be printed, so soon as conveniently may be after their appointment or beginning to act, forms of notices and agreements, and such other instruments as in their judgment will further the purposes of this Act, and supply all or any of such forms to any person or persons requiring the same, or to whom the said Commissioners shall think fit to send the same, for the use of any lord or copyholder or other tenant desirous of putting this Act into execution.

Commissioners to frame and circulate Forms, &c.

And be it Enacted, That any Commissioner or Assistant-commissioner, if the said Commissioners shall think fit, may attend any such 286.

B meeting

21. Commissioners or Assistantcommissioner may attend to advise Terms of Agreement. meeting for the purpose of taking part in the discussion and advising on the terms of agreement; but no Commissioner or Assistant-commissioner, during the time that he is actually attending the meeting for such purpose, shall have any of the powers herein given to the said Commissioners in case of an award or apportionment by the said Commissioners as hereinafter provided.

22.
Suits and
Differences
as to Rights
or Boundaries
may be referred to
Arbitration.

And be it Enacted, That if any action or suit shall be pending, touching the right to or amount of any fines, heriots or other manorial rights, or touching the situation or boundary of any lands, or if any difference shall arise whereby the making and executing of any such agreement shall be hindered, it shall be lawful for the lord and tenants or claimants, being parties to such action, suit or difference, to submit the same, not being an action, suit or difference touching or relating to any rights in mines or minerals, to reference by any writing under their respective hands, containing an agreement that such submission shall be made a rule of any of Her Majesty's courts of law, upon such terms of reference as the said parties may agree upon; and the decision of the arbitrator or arbitrators named in the said reference, shall be final and conclusive on all persons: Provided nevertheless, That no person being owner of an estate in a manor or lands less in the whole than an immediate estate of fee-simple or fee-tail, or corresponding copyhold estate, shall be empowered to submit to any such reference, so as to bind any person in reversion, remainder or expectancy, without the consent of the said Commissioners; and that it shall be lawful for the said Commissioners, if they shall think fit so to do, but not otherwise necessary, to direct that any person in reversion, remainder or expectancy, whom they shall deem to be interested therein, shall be made a party to such reference.

23.
Consents to be required to Agreement.

Provided always, and be it Enacted, That in every case in which any manor or lands shall be held under any Archbishop, Bishop, Dean and Chapter, Archdeacon or any ecclesiastical corporation, or any body politic, or any such parties, persons or bodies politic shall be interested in any manors or lands to the extent of One-third of the value thereof, and it shall appear to the said Commissioners that the interests of such parties, persons or bodies politic would be injuriously affected by the enfranchisement under this Act, no agreement to be made and executed under this Act shall be deemed to be executed by the said lord and tenants so holding or having such partial interest, unless the consent of such parties, persons or bodies politic whose interests appear to the said Commissioners to be so affected, shall be given under the hand or seal of the party, person or body politic giving the same; and such consent shall be annexed to the agreement for enfranchisement, and taken as part thereof.

And

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24.
Agreement to be confirmed by the Commissioners.

And be it Enacted, That every such agreement, as soon as may be after it shall have been executed by the lord and tenants, to the number and value as aforesaid, shall be sent by the chairman of the meeting, or by the person in whose custody it shall then be, to the office of the said Commissioners, and the said Commissioners, by themselves, or by some Assistant-commissioner, shall cause inquiry to be made, and shall require such proof as will be satisfactory to them, whether or not it ought to be confirmed; and if they shall be satisfied that it ought to be confirmed, the said Commis-10 sioners shall confirm the agreement under their hands and seal, and shall add to such agreement the date of the confirmation, and shall publish the fact of such confirmation, and the date thereof, within the manor, in such way as they shall deem fit; and every such confirmed agreement shall be binding on all persons interested in the 15 said manor and lands, and shall not be liable to be invalidated by reason of any doubt or question as to the sufficiency in the number and interest of the parties entering into such agreement.

> 25. Appointment of Valuers.

And be it Enacted, That at the said meeting for enfranchisement, or at some adjournment thereof, or at some other meeting to be called 20 in like manner, either before or after the confirmation of the agreement, valuers shall be appointed, in manner hereinafter mentioned, for the purpose of making such valuations, apportionments and schedules as shall be required for carrying the said agreement into execution; and in case such enfranchisement shall be in considera-25 tion of a fixed sum payable to the lord, the tenants present at such meeting shall appoint a valuer or valuers; and in case the majority in respect of number and the majority in respect of interest (computed as aforesaid) shall not agree upon the appointment, then they shall appoint Two or such other even number of valuers as shall be 30 then agreed on by such tenants, half of such number of valuers to be chosen by a majority in respect of number, and the other half by a majority in respect of interest (computed as aforesaid), of the tenants then present in person or by their agents; and when such enfranchisement shall not be in consideration of a fixed sum, payable to 35 the lord, one-half of the number of valuers shall be appointed by the lord, or the majority of the lords in value, and the other half by the tenants in manner aforesaid, or such respective parties may concur in the appointment of one or more valuer or valuers, and any question which may arise as to the regularity of the appointment of 40 such valuer or valuers, shall be decided by the said Commissioners.

> 26. Valuation.

And be it Enacted, That as soon as may be after the choosing such valuers, and after the confirmation of the said agreement, the said valuers shall, if they shall see occasion, apply to the said Commissioners for instructions as to the duties to be performed by them

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B 2 pursuant

pursuant to such agreement, and having received such instructions, shall proceed to make and send in to the said Commissioners such valuations, apportionments and schedules as they shall require, or as shall be necessary for the purposes of the said agreement and of this Act: Provided, That it shall be lawful for the said valuers, when an even number shall be chosen, by any writing under their hands, to appoint an umpire before they proceed upon the business of such valuation, and the decision of the umpire, on the questions in difference between the valuers, shall be binding on them respectively, and shall be adopted by them respectively in 10 their valuation: Provided also, That in case such umpire shall not be so appointed, it shall be lawful for the said Commissioners at any time to appoint a fit and proper person to be such umpire.

27. Valuers may enter on Lands, &c.

Must make Declaration.

And be it Enacted, That the said valuers and umpires respectively (if as to such umpires it shall become necessary for them to act respectively), and their agents or servants, at all reasonable times. may enter upon any of the lands and premises affected by such agreement, and make an admeasurement, plan and valuation or inspection of the same, without being subject to an action or molestation for so doing: Provided always, That no valuer or umpire shall be capable of acting until he shall have made and subscribed before the said Commissioners or some Assistant-commissioner, or a Justice of the Peace or Master Extraordinary in Chancery, a solemn declaration to the same purport and effect as the declaration hereinbefore directed to be made by the said Commissioners, substituting only the proper description of the office of such person for that of a Commissioner; which declaration it shall be lawful for the said Commissioners, Assistant-commissioner, Justice of the Peace or Master Extraordinary to administer; and every such declaration so made and subscribed shall be countersigned by the person before whom the same shall have been made, and shall be sent by him to the office of the said Commissioners.

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28.
CLAUSE (C.)
Steward to
furnish information.

And be it Enacted, That for the purpose of enfranchisement in any manor under this Act, the steward and bailiff of such manor for the time being shall, on request in writing by any tenant having signed the notice of an intended meeting, or by the chairman of any meeting or adjournment thereof, make out, within Three calendar Months from the date of such request, or within such period as the said Commissioners shall direct, a correct statement in writing, so far as the said steward or bailiff shall possess the means, of the several tenants of the said manor, their places of residence and description, the lands to which they shall respectively stand admitted for life, or otherwise, or which they shall hold subject to any manorial rights, in what parish or place such lands shall be situated, the nature and extent of the lord's manorial rights, the amount at which the several lands in

the said manor subject to arbitrary fines shall be rated to the relief of the poor, if such rating can be ascertained, the number of changes of tenancy in the said several lands, and of any other information which the said Commissioners shall require, and which the said steward or bailiff can procure and produce, without prejudice to the rights and interests of the lord of the said manor, and with his consent; and the said steward and bailiff respectively shall produce the said statement for inspection at any such meeting or adjournment thereof, on being paid for the same the usual charges, or such a remuneration 10 as shall have been agreed to, or, in case of difference, such a sum as the said Commissioners shall, under their hands, direct; and if any copies or extracts thereof shall be required, the sum of Fourpence shall be paid to the said steward for each Seventy-two Words; and the said steward and bailiff respectively shall be entitled to receive 15 and recover the said charges from any person who shall have required from them the said statement or copies; and within Three calendar Months after the execution of any such agreement as aforesaid, or within such period as the said Commissioners shall direct, the said steward, or, if there shall be no steward, the lord, shall make out 20 and send to the said Commissioners, or by their direction to the Valuers to be appointed as aforesaid, a Schedule, containing the like particulars respecting the lands held of the said manor, and such other information, and in such form as the said Commissioners shall require, and as the said steward, and, if no steward, the lord, 25 can procure and produce, without prejudice as aforesaid, and shall from time to time correct the said Schedule, according to the directions of the said Commissioners, and shall produce to the said Commissioners or to any Assistant-commissioner, when required, the court rolls or books of the said manor, and other documents of the like nature; and 30 for preparing such Schedule and information, and producing such documents as aforesaid, the said steward shall receive the usual charges, or such charges as the said Commissioners shall think fit and proper to allow; and in case the steward or bailiff, or, if there shall be no steward, the lord, shall not comply with any such request 35 or direction as aforesaid, it shall be lawful for the said Commissioners or any tenant of the said manor to apply for and obtain a writ or writs of mandamus to compel such steward, bailiff or lord, as the case may be, to produce such court rolls, books and other documents as may be required by the said Commissioners under the powers and 40 for the purposes of this Act; and if the costs of any enfranchisement under this Act shall be increased by or in consequence of the refusal of the steward, bailiff or lord to prepare such statement or Schedule, or produce such documents as aforesaid, it shall be lawful for the said Commissioners to make a special award respecting such additional costs under the power hereinafter contained, and the said costs shall be paid and recovered accordingly.

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29. Valuers to take particular circumstances of each case into consideration.

And be it Enacted, That when the said valuers shall be so instructed by the said Commissioners, pursuant to such agreement, they shall accordingly proceed to apportion the sum or sums to be paid for enfranchisement, and in making such apportionment the said valuers shall take into account the age and interest of the tenant, the probability of early or frequent payments of fines or heriots, the facilities for improvement, and all other circumstances relating to the land to be enfranchised, and shall make due allowance for the same; and when the tenant shall have only a life estate or other limited interest in his land, or the annual value of the tenement to be enfranchised shall not exceed the sum of Twenty Pounds, it shall also be lawful for the said valuers to state what proportion of the sum to be paid in respect of such land is for enfranchisement from fines or rights in timber. and what addition should be made thereto if the payment thereof should be deferred until the next act or event in which a fine would 15 become due to the lord, and shall state whether and in what cases, in their opinion, the payment should be deferred, and shall state such other particulars as may enable the said Commissioners to defer payment of the sum or sums to be charged on any land, if they shall think fit; and the said valuers shall, if so instructed, make an apportionment of the costs of the proceedings under this Act, and of the compensation to be paid to the steward or other officers of the manor, subject likewise to the approbation of the said Commissioners; and it shall also be lawful for the said valuers to make such other allowances as they shall deem just for the par- 25 ticular circumstances of the several tenements, so that such allowances shall not be inconsistent with the said agreement for enfranchisement, and the instructions received from the said Commissioners.

30. Schedules of Valuation to be deposited for inspection, and meeting appointed for hearing objections.

And be it Enacted, That as soon as the valuations, apportionments 30 or schedules, to be so made by the said valuers as aforesaid, shall have been sent to the said Commissioners, they shall cause a copy of the same to be deposited in the hands of the steward for the time being of the manor, or, if no steward, with the lord of the said manor, or with such person as they shall see fit, for the inspection of all persons 35 interested therein within the manor, or within a parish wherein part of the manor is situated, and shall forthwith cause notice to be given through such steward or lord, or in such manner as to the said Commissioners shall seem fit, of such copy being so deposited for inspection, and which inspection shall at all reasonable times up to the meeting 40 after mentioned, be allowed by such steward or lord, or such person as aforesaid, as the case may be, without fee; and in such notice such place and time, or places and times, shall be fixed as the said Commissioners shall think fit (the first not earlier than Twenty-one Days from the first giving such notice) for holding a meeting for hearing and determining

determining objections to the said valuation, or the amount of costs claimed by the said valuers, or to the said steward's schedule by any parties interested; and the said Commissioners, or some Assistant-commissioner (to whom respectively such steward or lord shall on the day before or previous to the commencement of such first meeting, as required, deliver such copy of the said valuations, apportionments or schedules, with all notices received as hereinafter provided,) shall at such meeting or meetings hear and determine any objection which may then and there be made against the said valuations, apportionments or schedules respectively, or any part thereof, or adjourn the further hearing thereof, if they or he shall think proper, to a future time, and may, if they or he shall see occasion, direct any further valuations, apportionments or schedules, inquiries or statements to be made, and from time to time fix further meetings for the hearing and determining objec-15 tions; of which further meetings, when not holden by adjournment, notice shall be given in manner hereinbefore directed with regard to the original meeting: Provided always, That no person shall be entitled to make any objection to any such valuations, apportionments or schedules, who shall not have left notice in writing of such intended objection with or for the steward or lord of the said manor with whom such copies shall be deposited at the place of deposit thereof Five Days before the time fixed for any such meeting (exclusive of the day of leaving such notice, but inclusive of the day of meeting,) forms of which notices shall be forwarded by the said Commissioners to the said steward 25 or lord, or other person, and shall be by him delivered to any interested party requiring the same; and which notices the said steward or lord, or other person, shall immediately on receipt thereof annex to such copies, or one of them, and shall note such objection on the copy to which the same relates, and allow the inspection of the said notices in 30 like manner as aforesaid; and when the said Commissioner or Assistant-commissioner shall have heard and determined all such objections, they and he are and is hereby required to cause such valuations, apportionments or schedules to be amended, as occasion shall require; and also from time to time, whether at such meeting 35 or not, to amend the steward's schedule, so as to show all deaths and alterations in ages of the tenants or otherwise taking place after making out the same, and before the apportionment hereinafter provided for, on being satisfied by the affidavit of the steward, sworn before a Master Extraordinary in Chancery, or by such other proof 40 as they or he may deem sufficient, that such amendments and alterations are required.

And be it Enacted, That the expenses of the proceedings under this Act shall (except in cases where, from special causes, the said Commissioners shall direct otherwise, and then as they shall direct,) be payable in manner following; (that is to say) where the valuers 286.

31. Expenses of Proceedings under the Act. shall be appointed by the tenants, the costs of the valuations, apportionments and schedules shall be paid by the tenants rateably, according to their interest; but where the valuers shall be appointed by the lord and tenants as aforesaid, then if only two shall be appointed, the lord shall pay half the costs, and the tenants as aforesaid shall pay half; and where more than two valuers shall be appointed, the lord shall pay One-third and the tenants as aforesaid shall pay Two-thirds; and in all cases of dispute or difference as to the amount of the costs, or the persons on whom any costs should fall, the said Commissioners shall have power to decide the same: Provided always, That when all the fines are fixed or certain, no part of the expenses of the valuation to be incurred under or by virtue of this Act shall be borne by the lord of any such manor.

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32. Schedule to be made by the Commissioners.

And be it Enacted, That forthwith after receipt of the valuations, apportionments or schedules so settled, the said Commissioners shall cause a schedule to be made of the sums to be paid for enfranchisement by the several tenants, or charged on their respective lands, and of the periods of payment of the principal money respectively, or commencement of interest, either pursuant to the apportionment made by the said valuers, or as shall seem just to the said Commissioners, having regard to all the circumstances of the case; and if the said Commissioners shall think fit to award any compensation to the steward or other officers of the manor for the loss they may sustain by such enfranchisement, the said schedule shall contain an apportionment of the sum so awarded; and the said schedule shall contain all such other orders, awards and declarations as shall be required for carrying this Act into execution, according to the provisions therein contained.

33. Schedule of Apportionment to be inspected, errors pointed out, and then confirmed.

And be it Enacted, That the said Commissioners shall forthwith, after making such schedule, cause a copy thereof to be deposited with the steward, lord or other person as aforesaid, for inspection 30 within the manor, or within some parish where part of the manor is situate, by any parties interested, and give notice of such power to inspect; and which inspection, during such period as the said Commissioners shall direct, shall be allowed as aforesaid; and at the expiration of that period, the said steward, lord or other 35 person as aforesaid shall return the same copy or copies to the said Commissioners, together with any notice he may have received during that period, pointing out any errors therein, and a statement of any errors which he may have discovered therein; and the said Commissioners shall forthwith inquire into and rectify any such errors therein, and shall cause the said schedule of apportionment to be engrossed on parchment or paper, and annex thereto any agreements, schedules, maps, plans or other documents or writings required for elucidation thereof, and shall confirm such apportionment

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under their hands and seals, and shall add thereto the date of such confirmation.

> deposited with Steward and Clerk of the Peace.

And he it Enacted, That Two Copies of every confirmed instrument Copies to be or schedule of apportionment and confirmed agreement and schedules to be annexed thereto, or written in the same book therewith, shall be made and sealed with the seal of the said Commissioners, and one such copy shall be delivered to the steward of the manor, to be deposited and kept with the Court Rolls thereof, and the other copy shall be deposited with the Clerk of the Peace for the county or 10 jurisdiction within which the said manor, or the greater part thereof in value computed as aforesaid, shall be situated, to be by him and his successors in office kept with the papers and books of the Clerk of the Peace for the time being; and all persons interested therein may have access to the said copies respectively, and shall be fur-15 nished with copies of or extracts from any such copy on giving reasonable notice to the party having the custody of the same, and on payment of Two Shillings and Sixpence for each inspection, and after the rate of Threepence for every Seventy-two Words contained in such copy or extract; and every recital or statement in, or agreement, 20 schedule, map, plan, document or writing annexed to such confirmed apportionment, shall be deemed satisfactory evidence of the matters therein recited or stated, or of the accuracy of such map or plan; and such deposit shall be notified by an advertisement or otherwise, as the said Commissioners may from time to time direct.

And be it Enacted, That the said Commissioners, if they shall see Notice to 25 fit, before confirming any agreement, valuation, assessment, schedule or apportionment, may require notice thereof to be given in such manher as they shall direct to the person next in remainder, reversion or expectancy of an estate of inheritance in any manor or lands, or 30 any other person to whom they may think notice ought to be given, and may by themselves or by some Assistant-commissioner hear and determine any objection made to such confirmation by any person so interested therein.

And be it Enacted, That it shall be lawful for the said Commis- Commission-35 sioners to correct or supply any manifest error or omission in any agreement, valuation, assessment, schedule or apportionment at any time after the same shall respectively have been made, with the consent in writing of the parties affected by such error or omission, but not otherwise.

with consent.

40 And be it Enacted, That if any action or suit shall be depending, touching the right to or amount of any fines or other manorial payments or incidents, or any question shall arise thereon, or as 286.

to the boundary of any lands, or precise situation of such lands as shall be intermixed with other lands, or the exact quantity of such lands, or any difference shall arise whereby the proceedings to effect any such enfranchisement under this Act shall be hindered, it shall be lawful for the said Commissioners or Assistantcommissioner to appoint a time and place in or near the manor for hearing and determining the same, and to inquire into, hear and determine such right or amount, or such question or questions as aforesaid; and the decision of the said Commissioners or Assistantcommissioner at such meeting, or any adjourned or renewed meeting, shall, subject to the provisions hereinafter contained, be binding and conclusive on all persons to whom Twenty Days' notice of the time, place and intent of such meeting shall have been given or left at their usual place of abode, or left with the occupying tenant of the lands to which such meeting shall relate, his, her and their heirs, executors, administrators and assigns, and the successors of any body politic or corporate; and such occupying tenant shall forthwith send such notice by post or otherwise to the party for whom the same was left, and in default of so doing shall be liable to the penalty of not less than Five Pounds, and not more than Twenty Pounds, to be recovered before two of Her Majesty's Justices of the Peace, on summary application in manner hereinafter mentioned, and shall also be liable to pay and make good to such party all damage which he may sustain by such default, to be recovered with full costs of suit in an action in any of Her Majesty's courts of law at Westminster.

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38. Subject to appeal by Issue at law, or in case stated.

Provided always, and be it Enacted, That any person claiming to be interested in any lands, who shall be dissatisfied with any such decision of the said Commissioners or Assistant-commissioner, may, if the yearly value of the payment to be made or withholden according to such decision shall exceed the sum of Fifty Pounds, cause an action to be brought in any of Her Majesty's courts of law at Westminster against the person in whose favour such decision shall have been made, within Three calendar Months next after such decision shall have been notified in writing, in such manner as the said Commissioners or Assistant-commissioner shall direct, to the parties interested therein, or to their known agents, in which action the plaintiff shall deliver a feigned issue, whereby such disputed right may be tried, and shall proceed to a trial at law of such issue at the sittings after the term, or at the assizes then next, or next but one, after such action shall have been commenced, to be holden for the county within which the lands, or the greater part thereof, are situated, with liberty nevertheless for the court in which the same shall have been commenced, or any Judge of Her Majesty's courts of law at Westminster, to extend the time for going to trial therein, or to direct the trial to be in another county, if it shall seem fit to such court or Judge so to do; and every defendant

fendant in any such action shall enter an appearance thereto, and accept such issue; but in case the parties shall differ as to the form of such issue, or in case the defendant shall fail to enter such appearance or accept such issue, then the same shall be settled under the direction of the court in which the action shall be brought, or by any Judge of Her Majesty's courts of law at Westminster, and the plaintiff may proceed thereon'in like manner as if the defendant had appeared and accepted such issue; and the parties in such action shall produce to each other, and their respective attornies or counsel, 10 at such time and place as any Judge may order before trial, and also to the court and jury upon the trial of any such issue, all books, deeds, papers and writings, terriers, maps, plans and surveys relating to the matters in issue in their respective custody or power; and it shall be lawful for the Judge by whom any such action shall be tried, 15 if he shall think fit, to direct the jury to find a verdict, subject to the opinion of the court upon a special case; and the verdict which shall be given in any such action, or the judgment of the court upon the case, subject to which the same may be given, shall be final and binding upon all parties thereto, unless the court wherein such action 20 shall be brought shall set aside such verdict, and order a new trial to be had therein, which it shall be lawful for the said court to do if it shall see fit: Provided also, That in case any such decision shall involve a question of law only, and the parties in difference shall be agreed upon the facts relating thereto, and whereon such decision 25 shall have been founded, the said Commissioners or Assistant-commissioner, at the request of the person dissatisfied (such request to be made in writing within Three calendar Months after such decision, and at least Fourteen Days' previous notice in writing of such request to be given in like manner to the other parties in difference, or to 30 their known agents), shall direct a case to be stated for the opinion of such one of Her Majesty's courts of law at Westminster as the said Commissioners or Assistant-commissioner shall think fit; which case shall be settled by them or him, or under their or his direction, in case the parties differ about the same, and may be set down for argu-35 ment, and be brought before the court in like manner as other cases are brought before the court; and the decision of such court upon every case so brought before it, shall be binding upon all parties concerned therein: Provided always, That after such verdict given and not set aside by the court, or after such decision of the court, the 40 said Commissioners or Assistant-commissioner shall be bound by such verdict or decision; and the costs of every action, or of stating such case and obtaining a decision thereon, shall be in the discretion of the court in or by which the same shall be decided, which may order the same to be taxed by the proper officer of the court; and the like execution may be had for the same, as if such costs had been recovered upon a judgment of record of the said court.

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And

39. Proceedings not to abate by death of parties.

And be it Enacted, That no proceedings of or before the said Commissioners or Assistant-commissioner, or in any action, or in any case stated or reference in pursuance of this Act, shall abate or cease by reason of the death of any person interested therein.

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40. In case of death of parties before actions brought, &c. the same to be brought and carried on in their names.

And be it Enacted, That if any person in whose favour any such decision of the said Commissioners, or any Assistant-commissioner, shall have been made, shall die before any such action shall have been brought or case stated, and before the expiration of the time hereinbefore limited for that purpose, it shall be lawful for any person who might have brought such action, or have had such case stated against the person so dying, to bring or have the same within the time so limited as aforesaid, nominally against such person, as if living, and to serve the said Commissioner or Assistant-commissioner with process, and notices relating thereto, in the same manner as the person deceased might have been served therewith if living; and it shall be lawful for every person entitled to the benefit of such decision as aforesaid, or in case of any such person being a minor, idiot, lunatic, feme covert, beyond the seas, or labouring under any other legal disability, the guardian, trustee, committee of the estate, husband or attorney respectively, or in default thereof such person as may be nominated for that purpose by the said Commissioners, and whom they are hereby empowered to nominate, under their hands and seal, to appear and defend such action, or argue such case, and proceedings shall be had therein, in the like manner, and the rights of all persons shall be equally bound and concluded by the event of such action, or the decision of such case, as if such person had been living, or free from disability; and the costs of every such action or case shall be in the discretion of the court, as aforesaid.

41. Statute of Limitations not to be affected.

Provided always, and be it Enacted, That nothing in this Act contained shall revive any right to fines or other manorial claims which now are or hereafter shall be barred by any law in force for the limitation of actions or suits.

42.
CLAUSE (D.)
Court rolls
to be preserved.

And be it Enacted, That the court-rolls and books of any manor wherein an enfranchisement shall take place under the authority of this Act, shall remain and be preserved by the lord of the same manor for the time being, and shall be subject to inspection for the purpose of deducing titles, in like manner and upon the like terms as if no enfranchisement had taken place: Provided always, That it shall be lawful for the lord of such manor, if he shall think fit, to deposit the said court-rolls and books in the hands of any person who shall be appointed to receive the same, in the county within which such manor is situate, by the Lord High Chancellor or Keeper of the Great Seal of Great Britain for the time being; and the person so appointed

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appointed shall be deemed and be an officer of Her Majesty's High Court of Chancery, and shall have the custody of the said court-rolls and books, subject to such rules or orders respecting the production thereof, and the delivery of copies or extracts therefrom, as shall be made or confirmed by the said Court; and it shall be lawful for the Lord Chancellor or Keeper as aforesaid to remove the said officer, and, in case of vacancy in the said office from removal or any other cause, to appoint another person or other persons to the said office when and as often as occasion shall require.

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And be it further Enacted, That if any lord, steward or other officer of any manor shall refuse or neglect to comply with any of the requisitions which shall be made under the authority and for the purposes of this Act as herein directed, it shall be lawful for the said Commissioners, or for any person whose interest shall be affected by 15 such refusal or neglect, to apply for and obtain from Her Majesty's Court of Queen's Bench a writ or writs of mandamus to compel such lord, steward or other officer to comply with such requisition as aforesaid.

43. Steward shall not comply sition, mandamus may be obtained.

And be it Enacted, That the said Commissioners or Assistant-commissioner, in any case where they or he may see fit, may order such expenses of witnesses, and of the production of any books, deeds, court rolls, contracts, accounts or writings, maps, plans and surveys, or copies thereof, and all other expenses (except the salaries or allowance to any of the said Commissioners or Assistant-commissioner provided 25 for as aforesaid) incurred in the settlement of any suit or difference. or in the hearing or determining any objection, valuation, schedule or apportionment before the said Commissioners or Assistant-commissioner, to be paid by such parties interested in the production thereof respectively, or in the event of such suit, difference or objection, and to such person or persons, and in such proportions as the said Commissioners or Assistant-commissioner may think fit and reasonable.

44. Expenses of

And be it Enacted, That the expenses of valuations, and other General expenses necessary in the making any enfranchisement as aforesaid, except when otherwise provided by this Act, shall be paid by the tenants, or by the tenants and lords, in such proportions as the said Commissioners shall in the confirmed apportionment, or otherwise. under their hands and seal direct; and that if any difference shall arise touching the amount of the said expenses, or the share thereof to be paid by or to any person, it shall be lawful for the said Commissioners or Assistant-commissioner to certify under their or his hands or hand the amount to be paid by or to such person; and in case any person shall refuse or neglect to pay the amount so certified or specified in such apportionment, to be payable from him immediately after notice 286. thereof,

thereof, then upon production of such certificate or of either of the deposited copies under seal of the said apportionment before two of Her Majesty's Justices of the Peace for the county, riding, division or jurisdiction wherein the manor to which the same relates, or the greater part thereof in value as appearing in such apportionment, is situate; and on proof of such refusal or neglect, such Justices are hereby authorized and empowered by warrant under their hands and seals to cause the same, and the costs of application and distress, to be levied by distress and sale of the goods of the person liable to pay the same, and to render the surplus (if any), after deducting the costs of distress and sale, to the person distrained upon.

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46. Action for Expenses.

And be it Enacted, That if such expenses shall not be levied under the said distress within Two Months after the said warrant shall be granted, it shall be lawful for the person entitled to the said expenses (if the same shall with the costs of application to such Justices amount to Forty Shillings or upwards), and his executors or administrators, to recover the same expenses and costs, with full costs of suit in an action of debt in any of Her Majesty's courts of law at Westminster against the party named in such warrant and certificate or apportionment as aforesaid, his executors or administrators; in which action such certificate or deposited copy of apportionment shall be satisfactory evidence of the amount of such expenses so awarded by the said Commissioners or Assistant-commissioner, and of the same being due for and to the parties therein named; and the certificate of such Justices under their hands on such warrant shall in like manner be evidence of the amount of costs of such application; and the production of such warrant (which in all such cases shall be allowed, and such certificate given by such Justices,) shall be satisfactory evidence of the non-recovery of such expenses and costs respectively under a distress.

47. Expenses of Trustees.

And be it Enacted, That every tenant being a trustee, or not beneficially interested in the lands of which he stands admitted tenant, to be affected by any enfranchisement under this Act (save as against an unadmitted mortgagee), shall be entitled to recover in like manner by distress or action respectively all expenses, costs and charges which he may have to pay under or by reason of any such certificate, apportionment, distress or action from the person beneficially interested at the date of such apportionment in the said lands, his executors, administrators or assigns, or by a like distress on the said lands, and the occupier whereof shall be entitled to deduct any such payments out of any rent then or subsequently due; and should any dispute arise as to any trusteeship or right to such recovery, the same shall be determined by the said Commissioners or Assistant-commissioner in like manner as is hereinbefore provided with respect to other causes of dispute

dispute or difference arising under this Act, and their or his certificate shall be deemed satisfactory evidence of the facts therein stated, and the like evidence shall be produced before such Justices or in such action as is hereinbefore provided in other cases of distress.

And be it Enacted, That any tenant having a limited interest, and who shall pay any such expenses or costs, may with the consent of the said Commissioners under their hands, and by a simple entry on the court rolls of the manor, (and for which entry the steward shall only charge Thirteen Shillings and Sixpence, and which shall not be 10 subject to any stamp duty) to charge such expenses and costs, with interest thereon, at the rate of Four Pounds per centum per annum on the copyhold lands to which the same shall relate.

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Copyholders having limited charge costs in certain

And be it Enacted, That the costs payable by Lords of Manors Expenses pay having particular interests, or being trustees, shall with the expenses of Manors. 15 they may reasonably incur in employing agents to protect their interests or otherwise, (the amount of such expenses being subject to the approval of the said Commissioners or an Assistant-commissioner) be paid out of the first monies to be received out of the enfranchisements to be effected under this Act.

And be it Enacted, That from and immediately after the date of Lands to be the final confirmation of the apportionment, the several and respective lands shall stand charged and chargeable with the respective sums mentioned in such apportionment to be payable to the lord and steward or other officers respectively, with lawful interest for the same, 25 from the day mentioned in the said apportionment until payment thereof respectively; and until such respective payment or payments, the person or persons for the time being seised of the manor, shall be deemed to stand seised of the said lands as mortgagee in fee thereof, for the benefit of the lords, as to the sums payable to them, 30 and of the said steward, or other officers, as to the sums payable to him or them, and at the option of the tenant, subject to the power of continuing the charge as hereinafter provided, and that it shall and may be lawful for the person so seised, or the lords or stewards respectively, in his name from time to time to adopt such means 35 and proceedings as a mortgagee in fee of freehold lands is entitled to for the enforcing payment of such principal sums and interest, with the like right to obtain payment of all attendant and incident costs and expenses; and the lord shall have power to distrain on the lands in respect of which the said sum or sums shall be payable for 40 the purpose of recovering payment of the interest that shall be due thereon, as fully and in like manner as if the same had been rent in arrear.

on Mortgage in fee.

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51. To be first charges.

And be it Enacted, That every such sum by this Act charged on any lands shall be a first charge on such lands, and shall have priority over all mortgages, charges and incumbrances whatsoever affecting such lands, notwithstanding such mortgages, charges and incumbrances shall have been or shall be respectively made and created before such sums respectively shall be charged on such lands.

52. Power to mortgage.

And be it Enacted, That it shall be lawful for any tenant whose lands shall be enfranchised under this Act, to charge the same (or any of them, provided he shall hold the whole thereof under the same 10 right and the same estate) with the payment of such sums as aforesaid (and the costs of such charges), and lawful interest thereon respectively, to any person who shall advance and lend such sums on the security of the lands so to be charged, and his executors, administrators and assigns; and for securing the payment thereof with such interest, to 15 convey the said lands by way of mortgage to the person who shall lend such sums, his heirs, executors, administrators and assigns, or • to such other person as he or they shall appoint, so as such mortgage be made with a proviso or condition declaring that such term shall be void, on payment of the amount thereby secured, with interest thereon, at a time to be therein appointed; and such charge shall have the like priority with the original charge under this Act, and with the powers and rights to which a first mortgagee would as mortgagee by demise be entitled.

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CLAUSE (A.) Power to Tenants for life, and Tenants whose lands are not of more than the annual value of 20 l., to defer payment of consideration for enfranchisement until the next event at which a fine would be payable.

And be it Enacted, That whenever any Tenant having only a life or other limited interest in his lands, or not holding lands of the annual value of more than Twenty Pounds, shall desire to defer the payment of the sum charged in respect of his lands or any part thereof, and shall give notice of such desire under his hand to the Steward or Lord, as hereinbefore directed with respect to other notices, before the valuations, apportionments or schedules hereinbefore directed to be deposited for inspection shall have been amended and settled, it shall be lawful for the said Commissioners in their schedule of apportionment, to award that so much of the sum apportioned to any such Tenant as shall have been charged for enfranchisement from fines or other manorial rights, to which such Tenant would not have been liable thereafter during his tenancy, shall not be paid until the period of the next act or event on which a fine or other such manorial right would have become payable or due to the Lord if the said lands had remained unenfranchised, and that within Six Months after such act or event the said sum shall become payable with such addition thereto as the said Commissioners shall direct: And be it also Enacted, That as soon as the said sum, with such addition thereto, shall become

become payable, the Lord or other person for the time being entitled to the benefit thereof, shall become entitled to the rents and profits of the land in respect of which the same shall be due, unless and until he shall have received notice that such sum is become payable, so that he may proceed to recover the same; and it shall be lawful for such Lord or other person to proceed to obtain possession of the said rents and profits, in like manner as if the said land had been lawfully seised into the hands of the Lord for non-payment of a fine, or other default of the Tenant; provided, that notice in writing, stating 10 the nature of such act or event as aforesaid, delivered by or on behalf of the Tenant to the Lord or other person entitled, or to the Clerk of the Peace, or other persons having the custody of the schedule of apportionment or award, shall be deemed sufficient notice that the said sum is become payable; and as soon as the said 15 sum is become payable, the land in respect of which the same shall be due, and the beneficial owner thereof for the time being, shall be subject to the like remedies for recovery thereof; and such sum shall become applicable in like manner, subject to any such allowance thereout as hereinafter provided, as if such land had not been pre-20 viously enfranchised, and the payment for the same had not been deferred.

And be it Enacted, That for the purpose of freeing other tenants from the inconvenience to which in certain cases they might be subjected, by an immediate liability to payment of the sums to be awarded 25 to the lord of the manor under this Act, it shall be lawful for such tenant, at any reasonable time, before final apportionment as aforesaid, (to be fixed by the said Commissioners, and in default of their fixing any other limit at any other time, or until within Ten Days next previous to such apportionment), to declare by notice under his hand, to be 30 delivered to the lord or steward as hereinbefore provided with respect to other notices, his desire that such compensation-money should remain a charge on the lands affected thereby, for any number of years not exceeding Fourteen Years, and which notice the steward shall forthwith or with the said schedule of apportionment send to 35 the said Commissioners, and thereupon the said Commissioners shall insert, in a column of such apportionment, to be appropriated to such purpose, the number of years or period for which such charge is to be continued, and thereupon (subject as after mentioned) no proceedings shall be instituted during such time or period to enforce payment of 40 the principal money so apportioned: Provided nevertheless, That interest after the rate of Four Pounds per centum per annum thereon shall be payable and paid half-yearly on the days to be mentioned in such apportionment, or if not mentioned, then at the expiration of each half-year, computed from the date thereof; and nothing herein contained shall extend to protect any tenant or other person from **286**. such

54. Power to tenants to defer payment of consideration for enfranchisement.

such proceedings, in case interest for One Year and a half shall remain due on the principal sum apportioned or awarded, or on any part thereof, to the amount of one-half: Provided also, That during the term or period so fixed, the lords shall not be compellable to receive payment of the principal money without receiving Twelve calendar Months' notice of the intention to pay off the same; and that in case the interest on such principal sum, or any part thereof, shall at any time be in arrear or unpaid for Thirty Days after any half-yearly payment shall be due as aforesaid, it shall be lawful for the lord or party entitled for the time being to receive such 10 interest money, to levy the same by distress and sale of the goods on the lands and tenants enfranchised and affected by such enfranchisement, or any of them, as fully and in like manner as if the same had been rent in arrear, and subject to recovery by distress; but such interest shall not be deemed liable to any parochial rate or 15 assessment.

55.
To whom monies for enfranchisement from Lords' rights to be paid.
Money paid

Lords' rights to be paid.

Money paid for enfranchisement amounting to £. 200, in certain cases to be paid into the Bank of England under the 1 Geo. 4, e. 35.

And be it Enacted, That all monies to be paid under this Act for enfranchisement from the lord's right shall be paid to the lord of the manor, his heirs or assigns, where he shall be absolute owner of the manor, and where such lord for the time being shall be only entitled 20 for a limited estate or interest therein, or shall be under any legal disability, such money, subject to any allowance which may be made thereout in respect of deferred payments hereinafter mentioned, shall, in case the same shall amount to or exceed the sum of Two hundred Pounds, with all convenient speed, be paid into the Bank 25 of England in the name and with the privity of the Accountant-General of the Court of Exchequer, to be placed to his account there "ex parte The Copyhold Enfranchisement Commis-SIONERS," pursuant to the method prescribed by an Act passed in the first year of the reign of his late Majesty King George 30 the Fourth, intituled, "An Act for better securing Monies and Expenses paid into the Court of Exchequer at Westminster on account of the Suitors of the said Court, and for other purposes, and the general Orders of the said Court," and without fee or reward; and shall, when so paid in, therein remain until the same shall, by order 35 of the said Court, made in a summary way, upon petition to be presented to the said Court by the person or persons who would have been entitled to the rents and profits of the said manor had no such enfranchisement been made as aforesaid, be applied in the purchase of a redemption of the land tax, or in or towards the discharge of any debt or other incumbrance affecting the said manor, or affecting other lands standing settled therewith, to the same or the like uses, trusts, intents or purposes; as the said Court of Excheques shall authorize to be purchased or paid, or such part thereof as shall be necessary, or until the same shall upon the like application be laid

laid out by order of the said court, made in a summary way as aforesaid, in the purchase of lands which shall be conveyed, limited and settled to, for and upon such and the like uses, trusts, intents and purposes as the said manor or such of them as at the time of making 5 such conveyance and settlement shall be existing, undetermined and capable of taking effect; and in the meantime and until such purchase can be made, the same money may, by order of the said court, upon application thereto, be invested by the said Accountant-General in his name in the purchase of Three Pounds per centum Consolidated Bank Annuities, or Three Pounds per centum Reduced Bank Annuities, or in Government or real securities; and in the meantime and until such annuities or securities shall be ordered by the said court to be sold for the purposes aforesaid, or shall be called in or cancelled, the dividends or interest, and annual produce thereof, shall from time to time, by order of the said court, be paid to the person or persons who would for the time being have been entitled to the rents and profits of the said manor, had no enfranchisement been made as aforesaid.

> 56. than £. 200.

Provided always, and be it Enacted, That if any money to be 20 be paid for the enfranchisement from the lord's rights shall be less than the sum of Two hundred Pounds and shall exceed the sum of Twenty Pounds, after such allowance for deferred payments as aforesaid, then the same shall at the option of the respective parties for the time being entitled to the said manor, the right of which 25 shall be enfranchised, or of their respective husbands, guardians or committees in case of coverture, infancy, idiotcy, lunacy or other incapacity, be paid into the Bank of England in the name and with the privity of the said Accountant-General, and be placed to his account as aforesaid, in order to be applied in manner hereinbefore 30 directed, or otherwise the same may be paid at the like option to two trustees to be nominated by the respective parties exercising such option; and such nomination and approbation to be signified in writing under the hands of the nominating parties; and the money so paid to such trustees, and the dividends and produce so arising therefrom, 35 shall be by such trustees applied in like manner as is hereinbefore directed with respect to the money to be paid into the Bank of England in the name of the Accountant-General of the Court of Exchequer.

Provided also, and be it further Enacted, That when any money so when not 40 to be paid as last hereinbefore mentioned shall not exceed the sum of above £. 20. Twenty Pounds for all the enfranchisements in such manor, the same shall be paid to the respective parties for the time being entitled to the said manor, for his own use and benefit, or in case of coverture, infancy, idiotcy, lunacy or other incapacity, then such money shall be 286.

paid for their use to their respective husbands, guardians, committees or trustees; and in case any dispute shall arise as to the proper application of any enfranchisement money, according to the intention of this Act, it shall be lawful for the said Commissioners to decide such question, and their decision shall be final and conclusive thereon.

58.
CLAUSE (B.)
Where payments are deferred by
Tenants, provision as to
Lords being
tenants for life.

And be it Enacted, That where the lord of the manor shall be only entitled for a limited estate or interest therein, and the said Commissioners shall have deferred payment of any sum or sums for enfranchisement under the powers hereinbefore contained, so that instead of such lord receiving a certain sum or the interest thereon forthwith, he or the lord for the time being shall become entitled at a future period to the said deferred sum, with an addition thereto on account of the fine which would have become payable on the act or event fixing such period, or with an addition thereto on any other account, it shall be lawful for the said Commissioners to award and direct that out of the money payable or chargeable forthwith for enfranchisement of any lands in such manor, a certain sum of principal money shall be paid to or charged in favour of such lord, as if he were absolute owner of such manor, and such principal sum shall be paid or charged accordingly; and in case it shall happen that there shall be no money payable forthwith for enfranchisement, or not sufficient for making such allowance to the lord as aforesaid, or with the consent of the lord, in any case it shall be lawful for the said Commissioners to award and direct that so much of the sum payable at a future period as they shall think adequate to his interest, shall become his absolute property, and shall be paid or charged accordingly.

59. Payment to Steward.

And be it Enacted, That all sums payable under this Act for compensation to the steward, shall be paid to him, his executors or administrators.

60. Receipts to discharge, &c.

And be it Enacted, That the receipts of the persons to whom any sums of money shall be paid pursuant to this Act, shall be sufficient discharges for the same, and the person making such payment shall not be liable to see to the application of any such sums, or be answerable for the misapplication or non-application thereof; and for the better evidencing such payment, the steward for the said manor for the time being, shall, as to steward's compensation, forthwith after payment thereof, and as to the payments for enfranchisement from the lord's rights, forthwith after production of receipt for the same, signed by the party entitled to sign the same, enter on the copy apportionment, to be deposited with him as aforesaid, a memorandum of such payment, and which memorandum shall, in like manner as such receipt, be deemed sufficient evidence of such payment, and discharge the lands, and the person paying the same, from the sums mentioned to be paid.

And

subject, &c.

And be it Enacted, That from and after such final confirmation of Lands to be the apportionment, the several lands therein comprised and enfranchised shall become and be in all respects of freehold tenure, but subject to the payment of the enfranchisement consideration in favour of the lords and steward, or other officer as aforesaid, and all mortgages affecting the same shall be deemed and become mortgages in fee of the same lands (if such enfranchisement consideration shall be paid off); and if not so paid off, mortgages in fee of the equity of redemption thereof, subject to such mortgage interest as aforesaid for securing such 10 consideration: Provided always, That nothing herein contained shall operate to deprive any tenant of any commonable right to which he may be entitled in respect of such lands; but such right shall continue attached thereto, notwithstanding the same shall become freehold: Provided also, That no such enfranchisement or conversion 15 into freehold shall affect, except as aforesaid, any mortgage, or defeat the beneficial limitations of any will or settlement theretofore executed, or alter the descent or distribution of any estate or interest in land on the decease of any tenant or person entitled thereto in possession or remainder at the time of such enfranchisement or conversion.

Commonable Rights to

And be it Enacted, That nothing in this Act contained shall operate to affect any rights of lords of manors to escheats, fairs, markets, appointments, franchises, royalties, rights, liberties and privileges of chase and free warren, hunting, hawking, fowling, and of chasing and killing game and beasts of chase and free warren, and all ancient 25 piscaries, fisheries and rights of fishing, or any rights in, over or upon commons and waste lands, or in mines and minerals within or under the said lands and hereditaments, unless expressly commuted under this Act, and save that all persons whose lands shall remain subject to manorial rights in mines and minerals, shall have full 30 right and liberty to dig for, raise and get in or upon their respective lands, any stones, lime, clay, brick-earth, turf or peat, or other soil, so that the manorial rights so reserved be not thereby lessened or defeated.

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62. Other rights of Lords not

And be it Enacted, That all lands which shall be enfranchised 35 under this Act shall be deemed to be held under the same title, up to the time of such enfranchisement, and shall not be subject to any estates, rights, titles, interests, incumbrances, claims or demanus affecting the manor of which the same were holden.

63. Substituted

And be it Enacted, That for the purpose of enabling the lords and 40 tenants of manors to effect enfranchisements, either general or partial, with less expense and delay than may be caused by the proceedings hereinbefore directed, it shall be lawful for the lord of any manor, whatever may be his interest therein, with the consent of the said Commissioners under this Act, at any time or times before such agreement 286.

64. Power to enfranchise before agreement under

for enfranchisement as aforesaid shall be entered into, to enfranchise all or any of the lands holden of his manor, in consideration of such a sum or sums of money, whether payable forthwith, or at a future time, as shall be agreed to be paid by the tenant or tenants whose lands are to be enfranchised; and it shall be lawful for any tenant, whatever may be his interest, with the like consent of the said Commissioners under this Act, to accept such enfranchisement on the terms so agreed on; and whenever so many as Twelve Persons being tenants, or all the tenants of any manor, shall at the same time agree with the lord for the enfranchisement of their lands, then it shall be lawful to effect 10 such enfranchisement by a schedule of apportionment to be confirmed and sealed by the said Commissioners under this Act, and all the provisions hereinbefore contained for carrying into execution an apportionment made by valuers, pursuant to a voluntary agreement as aforesaid, and for the enfranchisement of all the lands holden of a 15 manor, shall be applicable to the case of an enfranchisement between the lord and such number of his tenants as aforesaid, save that the said Commissioners shall not make any alterations or amendments in such schedule or the terms of such enfranchisement without the consent of the parties interested therein: Provided always, That whenever the estate of any party to such enfranchisement shall be less than an estate of fee-simple in possession, or corresponding copyhold or customary estate, notice in writing shall be given by or on behalf of such party to the person next entitled in remainder or reversion to the manor or land to be affected by such enfranchisement, so that the assent or dissent, or acquiescence of such person entitled in remainder or reversion, may be stated in writing to the said Commissioners when such a schedule of apportionment as aforesaid shall be sent to them, but the said Commissioners shall notwithstanding cause such further notices to be given and such other inquiries to be made as they shall deem fit before confirming such apportionment: Provided also, That nothing herein contained shall operate or extend to prevent any enfranchisement which may be made independently of this Act.

How such Enfranchise ment may effected.

And be it Enacted, That if such agreement for enfranchisement as last-mentioned shall not be entered into by all the tenants of the manor, or their number shall be less than Twelve, or whatever may be the number, if the parties shall think fit, an enfranchisement may be effected, with the consent of the said Commissioners, by such conveyance, deed or assurance as would or might be adopted for effecting such enfranchisement if the lord were seised of the manor for an absolute estate of inheritance in fee simple in possession, and in such case the sum or sums to be paid for enfranchisement shall be paid and applied in like manner as is hereinbefore provided with respect to consideration monies for other enfranchisements under this Act, and with the like provisions for discharge after receipt given for the same,

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and for substitution of title, retention of rights and otherwise as hereinbefore provided.

And be it Enacted, That no agreement, award or power of attorney made or confirmed or used under this Act, shall be chargeable with 5 any stamp duty.

And be it Enacted, That the said Commissioners may receive and send by the General Post, from and to places in England and Wales, all letters and packets relating exclusively to the execution of this Act, free from the duty of postage, provided that such letters and of postage. 10 packets as shall be sent to the said Commissioners be directed to the " Copyhold Enfranchisement Commissioners" at their office in London, and that all such letters and packets as shall be sent by the said Commissioners shall be in covers, with the words "Copyhold Enfranchisement Commissioners" printed on the same, and be signed on the outside 15 thereof under such words with the name of such person, in his own hand-writing, as the said Commissioners, with the consent of the Lords Commissioners of the Treasury, or any Three or more of them, shall appoint (such name to be from time to time sent to the Secretary of the General Post-office in London,) and be sealed with the seal of the said 20 Commissioners, and under such other regulations as the said Lords Commissioners, or any Three or more of them, shall think fit; and if the person so to be appointed shall subscribe or seal any letter or packet whatever except such only concerning which he shall receive the special direction of his superior officer, or which he shall himself 25 know to relate exclusively to the execution of this Act, or if the person so to be appointed or any other person shall send or cause to be sent under any such cover any letter, paper or writing, or any enclosure, other than shall relate exclusively to the execution of this Act, every person so offending shall forfeit and pay the sum of One 30 hundred Pounds, and be dismissed from his office; one moiety of such penalty shall be paid to the use of Her Majesty, Her heirs and successors, and the other moiety to the use of the person who shall inform or sue for the same; and every such penalty may be sued for and recovered in any of Her Majesty's Courts of Record in 35 Westminster.

And be it Enacted, That no action or suit shall be commenced Limitation of against any Commissioner, Assistant-commissioner, Justice of the Peace, valuer, umpire or surveyor for any thing done under the authority of this Act, until Twenty-one Days' notice thereof shall have been commissiongiven in writing to the party against whom such action or suit is ers, Justices, &c. intended to be brought, or after sufficient satisfaction or tender of amends shall have been made to any party aggrieved, or after Three calendar Months shall have expired from the commission of the act for which such action or suit shall be so brought; and every such action 286. E 3

66. Agreements, Contracts and Awards not to be liable to Stamp Duties.

67. Correspon-dence of Comrelating to this Act, to be free

68. Actions against Comshall be brought, laid and tried in the county or place where the cause of action shall have arisen, and not in any other county or place; and if it shall appear that such notice of action or suit was brought before Twenty-one Days' notice thereof given as aforesaid, or that sufficient amends were made or tendered as aforesaid, or if any such action or suit shall not be commenced within the time before limited in that behalf, or such action shall be laid in any county or place other than as aforesaid, then the jury shall find a verdict for the defendant therein, or the court, upon summary application by motion in any such suit, may dismiss the same against such defendant; and 10 if a verdict shall be found for such defendant, or such suit shall be dismissed upon application as aforesaid, or if the plaintiff in such action or suit shall become nonsuit or suffer a discontinuance of such action, or if upon any demurrer in such action or suit, judgment shall be given for the defendant therein, then such defendant shall 15 have costs, charges and expenses as between attorney and client.

69. Proceedings under this Act not to be quashed for want of form, nor to be removed by certiorari.

And be it Enacted, That no order, adjudication or proceeding made or had by or before the said Commissioners or any Assistant-commissioner under the authority of this Act, or any proceeding to be had touching any offender against this Act shall be quashed for want of form, or be removed or removable by certiorari or any other writ or process into any of Her Majesty's Courts of Record at Westminster or elsewhere.

70. Limits of Act.

And be it Enacted, That this Act shall extend only to England and Wales.

71. Interpretation Clause.

And be it Enacted, That in the construction and for the purposes of this Act, unless there be something in the subject or context repugnant to such construction, the word "manor" shall extend to a manor or reputed manor, of whatever tenure the same may be; the words "lord" and "steward" shall include the person or persons for the time being filling those respective characters, or acting in those respective capacities, whether those persons shall be rightfully or lawfully entitled to fill such characters, or act in such capacities, ornot, or by whatever name they may be called; the words "tenant" or "tenants" shall comprise all persons holding by copy of court 35 roll, or as customary tenants, or holding lands subject to any manorial rights, and whether holden to them and their heirs, for life or for years; the words "land" or "lands" shall extend to and comprise lands holden by copy of court roll, or by custom of any manor, whether in fee or for life or lives, or for years, renewable in any way whatsoever, and shall also comprise all lands holden of a manor subject to any manorial rights, and shall extend to messuages, tenements and hereditaments, subject to manorial rights, whether corporeal or incorporeal, or any undivided part or share therein;

therein; the word "enfranchisement" shall mean and include the commutation or discharge of all lands holden of a manor from heriots or any other manorial right; the word "person" shall mean and include The Queen's Majesty, and any body politic or corporate or collegiate, as well as an individual; and every word importing the singular number only shall mean and include several persons or parties, as well as one person or party, and several things as well as one thing, respectively, and the converse; and every word importing the masculine gender only shall mean and include a female as well as 10 a male.

And be it Enacted, That this Act may be amended, or repealed Act may by any Act to be passed in this present Session of Parliament.

Copyholds Enfranchisement.

I

[AS AMENDED ON RE-COMMITMENT]

For the Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights.

(Prepared and brought in by Mr. James Stewart, Mr. Attorney-General 'and Mr. Freshfield.)

Ordered, by The House of Commons, to be Printed, 5 June 1839.

286.

. 499

COPYHOLDS ENFRANCHISEMENT BILL.

CLAUSES

PROPOSED TO BE SUBSTITUTED

Instead of Clauses 28, 64, 65 & 66,

IN THE

BILL for the Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights.

Instead of CLAUSE 28.

And be it Enacted, That for the purpose of enfranchisement in any manor under this Act, the steward and bailiff of such manor for the time being shall, on request in writing by any tenant having signed the notice of an intended meeting, or by the chairman of any meeting or adjournment thereof, make out, within Three calendar Months from the date of such request, or within such period as the said Commissioners shall direct, a correct statement in writing, so far as the said steward or bailiff shall possess the means, of the several tenants of the said manor, their places of residence and description, the lands 10 to which they shall respectively stand admitted for life, or otherwise, or which they shall hold subject to any manorial rights, in what parish or place such lands shall be situated, the nature and extent of the lord's manorial rights, the amount at which the several lands in the said manor subject to arbitrary fines shall be rated to the relief of 15 the poor, if such rating can be ascertained, the number of changes of tenancy in the said several lands, and of any other information which the said Commissioners shall require, and which the said steward or bailiff can procure and produce, without prejudice to the rights and interests of the lord of the said manor, and with his consent; and 20 the said steward and bailiff respectively shall produce the said statement for inspection at any such meeting or adjournment thereof, on being paid for the same the usual charges, or such a remuneration as shall have been agreed to, or, in case of difference, such a sum as the said Commissioners shall, under their hands, direct; and if any 0.96.

28. Steward to furnish infermation.

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copies or extracts thereof shall be required, the sum of Fourpence shall be paid to the said steward for each Seventy-two Words; and the said steward and bailiff respectively shall be entitled to receive and recover the said charges from any person who shall have required from them the said statement or copies; and within Three calendar Months after the execution of any such agreement as aforesaid, or within such period as the said Commissioners shall direct, the said steward, or; if there shall be no steward, the lord, shall make out and send to the said Commissioners, or by their direction to the Valuers to be appointed as aforesaid, a Schedule, containing the like particulars respecting the lands held of the said manor, and such other information, and in such form as the said Commissioners shall require, and as the said steward, and, if no steward, the lord, can procure and produce, without prejudice as aforesaid, and shall from time to time correct the said Schedule, according to the directions of the said Commissioners, and shall produce to the said Commissioners or to any Assistant-commissioner, when required, the court rolls or books of the said manor, and other documents of the like nature; and for preparing such Schedule and information, and producing such documents as aforesaid, the said steward shall receive the usual charges, or such charges as the said Commissioners shall think fit and proper to allow; and in case the steward or bailiff, or, if there shall be no steward, the lord, shall not comply with any such request or direction as aforesaid, it shall be lawful for the said Commissioners or any tenant of the said manor to apply for and obtain a writ or writs of mandamus to compel such steward, bailiff or lord, as the case may be, to produce such court rolls, books and other documents as may be required by the said Commissioners under the powers and for the purposes of this Act; and if the costs of any enfranchisement under this Act shall be increased by or in consequence of the refusal of the steward, bailiff or lord to prepare such statement or Schedule. or produce such documents as aforesaid, it shall be lawful for the said Commissioners to make a special award respecting such additional costs under the power hereinafter contained, and the said costs shall be paid and recovered accordingly: Provided always, That every steward or other officer of any manor, who shall have been appointed to his office on or before the First day of January last. shall be entitled to have an adequate compensation, to be assessed by the said Commissioners, to be paid in the manner herein provided, for the salary, fees and emoluments of the office from the liability to which the tenants will be relieved by enfranchisement under this Act, regard being had to the manner of his appointment to the said office and his term or interest therein, and all other circumstances of the case; and every person entitled to such compensation as aforesaid shall deliver to the said Commissioners a statement under the hand of such person, setting forth the amount received by him or his predecessors

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64.

Lord's rights

to be paid.

decessors in every year during the period of Five Years next before the passing of this Act (so far as he is enabled te ascertain the same), on account of the salary, fees, emoluments, profits and perquisites in respect whereof he shall claim such compensation, distinguishing the office, place, situation, employment or appointment in respect whereof the same shall have been received, and containing a declaration that the same is a true statement, according to the best of the knowledge, information and belief of such person, and also setting forth the sum claimed by him as such compensation.

Instead of CLAUSE 64.

And be it Enacted, That all monies to be paid under this Act for To whom 10 enfranchisement from the lord's rights shall be paid to the lord of the manor, his heirs or assigns, where he shall be absolute owner of the manor; and where such lord for the time being shall be only entitled for a limited estate or interest therein, the enfranchisement-money shall, after payment of the costs and expenses incurred under this Act, be paid to the trustees acting under the will, conveyance or settlement under which such lord having such limited interest shall hold the manor of which the copyholds so to be enfranchised shall be parcel; and where there are no such trustees, then into the hands of 20 the trustees to be nominated by the said Commissioners, unless the person entitled to such limited interest, and the person or persons entitled in reversion expectant on the determination of such limited interest, shall concur in nominating such trustees; and where such lord shall be a body corporate, whether sole or aggregate, the said enfranchisement-money shall be paid to trustees to be nominated by such body corporate, and approved of by the Commissioners for the time being acting under this Act; and where such lord for the time being shall be under any legal disability, then the said enfranchisement-money shall be paid to trustees to be nominated by the 30 said Commissioners; and when and so often as any such trustees as aforesaid shall be reduced to less than Two Persons, then and in every such case, and as often as the same shall happen, until payment, conveyance or transfer to the absolute owner as after mentioned, the surviving or continuing trustee, his executors or administrators, shall 35 appoint a new trustee or trustees, as the case may require, so that there may be at least Two Trustees to act in the trust; and upon every such appointment of a new trustee or new trustees, the said principal money, and the stocks, funds and securities in or upon which the same shall be invested, shall, with all convenient speed, be paid, conveyed, 40 transferred and assured, so as to be vested in such new trustee or trustees, either jointly with the surviving or continuing trustee, or solely, as the case may require.

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Instead

Instead of CLAUSE 65.

65. Investment of Monies, and application.

And be it Enacted, That such trustees for the time being shall stand possessed of and interested in the said enfranchisement-money, upon trust, with the written consent of the lord of such manor, if not under disability, to apply the same, or a competent part thereof, in a redemption of the land-tax, or the discharge of any debt or any other incumbrance affecting the same manor, or affecting other lands standing settled therewith to the same or the like uses, trusts, intents or purposes, or in the purchase of lands which shall be conveyed, limited and settled to, for and upon such and the like uses, trusts, intents and purposes as the said manor, or such of them as at the 10 time of making such conveyance and settlement shall be existing undetermined and capable of taking effect, and in the mean time and until such purchase can be made, to invest the same in Government or real securities, at interest: And be it also Enacted, That the said trustees for the time being shall stand seised and possessed of and 15 interested in the said estates, stocks, funds and securities, upon trust from time to time to pay the rents, dividends and interest thereof, when and as the same shall be received, unto the person or persons who for the time being would be entitled to the rents and profits of the said manor had no enfranchisement been made as aforesaid, and to convey, transfer, assign and pay the said estates, stocks, funds and securities, with any portion of the said monies then in their hands uninvested, unto the person or persons who shall become absolute owner or owners of the said manor, forthwith after such person or persons shall become so entitled and be free from legal disability.

Instead of CLAUSE 66.

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66. Court rolls to be pre. served.

And be it Enacted, That the court-rolls and books of any manor wherein an enfranchisement shall take place under the authority of this Act, shall remain and be preserved by the lord of the same manor for the time being, and shall be subject to inspection for the purpose of deducing titles, in like manner and upon the like terms as if no enfranchisement had taken place: Provided always, That it shall be lawful for the lord of such manor, if he shall think fit, to deposit the said court-rolls and books in the hands of any person who shall be appointed to receive the same, in the county within which such manor is situate, by the Lord High Chancellor or Keeper of the Great Seal of Great Britain for the time being; and the person so appointed shall be deemed and be an officer of Her Majesty's High Court of Chancery, and shall have the custody of the said court-rolls and books, subject to such rules or orders respecting the production thereof, and the delivery of copies or extracts therefrom, as shall be made made or confirmed by the said Court; and it shall be lawful for the Lord Chancellor or Keeper as aforesaid to remove the said officer, and, in case of vacancy in the said office from removal or any other cause, to appoint another person or other persons to the said office when and as often as occasion shall require.

CLAUSES

PROPOSED TO BE SUBSTITUTED

INSTEAD OF CLAUSES 28, 64, 65 & 66,

IN THE

BILL for the Enfranchisement of Lands of Copyhold and Customary Tenure, and other Lands subject to Manorial Rights.

June 1839.

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A

To amend the Law of Copyright.

[Note.—The Words in the Bill printed in Italics are proposed to be inserted in the Committee.]

的使眠使用的 it is expedient to amend the Law relating to Copyright, and to afford greater encouragement to the production of Literary Works of lasting benefit to the world; 150 it Cnatted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT from the passing of this Act, an Act passed in the eighth year of the reign of her Majesty Queen Anne, intituled, "An Act for the Encouragement of Learning, by vesting the Copies of Printed Books in the Authors or Purchasers of such Copies during the times therein mentioned;" and also an Act passed in the forty-first year of the reign of his Majesty King GEORGE the Third, intituled, "An Act for the further Encouragement of Learning in the United Kingdom of Great Britain and Ireland, by securing the Copies and Copyright of Printed Books to the Authors of such Books, or their Assigns for the time therein mentioned;" and also an Act passed in the fifty-fourth year of the reign of his 54 Geo. 3, Majesty King George the Third, intituled, "An Act to amend the several Acts for the Encouragement of Learning, by securing the Copies and Copyright of Printed Books to the Authors of such Books, or their Assigns," be and the same are hereby Repealed, except so far as the continuance of either of them may be necessary for carrying on or giving effect to any proceedings at law or in equity pending at the time of passing this Act, or for enforcing any cause of action or suit, or any right or contract then subsisting.

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41 Geo 3,

tending Copy-

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\ 2.
Interpretation Clause.

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And be it Enacted, That in the construction of this Act, the word "Book" shall be construed to mean and include every volume, pamphlet, part of any work separately published, sheet of letter-press, and sheet of music, map, chart or plan; that the word "Dramatic Piece" shall be construed to mean and include every tragedy, comedy, play, opera, oratorio, farce, or other scenic musical or dramatic entertainment; that the word "Copyright" shall be construed to mean the sole and exclusive liberty of printing or otherwise multiplying copies of any subject to which the said word is herein applied; that the words "British Dominions" shall be construed to mean and include all parts of the United Kingdom of Great Britain and Ireland, the Islands of Jersey and Guernsey, all parts of the East and West Indies, and all the colonies, settlements and possessions of the Crown, which now are or hereafter may be acquired; and that whenever in this Act, in describing any person, matter or thing, the word importing 15 the singular number or the masculine gender only is used, the same shall be understood to include and to be applied to several persons as well as one person, and females as well as males, and several matters or things as well as one matter or thing respectively, unless there shall be something in the subject or context repugnant to such construction.

Copyright in any Book hereafter to be published to endure to the Author for life, and for Sixty Years, commencing at his death.

And be it Enacted, That the Copyright in any Book which shall hereafter be published shall be the property of the Author thereof, and his assigns, for the term of the natural life of such Author, and the further term of Sixty Years, commencing at the time of his 25 death.

4. In case of subsisting Copyright in the Author or his Representative or Assignee in consideration of natural love and affection, such Copyright shall continue for Sixty Years from the Author's death.

And be it Enacted, That in all cases in which the Copyright in any Book shall be subsisting at the time of passing this Act, and shall be the property of the Author thereof, or of the personal representative, legatec, widow or next of kin of such Author or other person who may 30 have acquired the same in the course of the administration of the estate of such Author, or of any person to whom such Author shall have assigned the same in consideration of natural love and affection, such Copyright shall continue and belong to the party so entitled to the same and his assigns until the expiration of Sixty Years, commencing 35 at the death of such Author, subject nevertheless to any charge subsisting upon the same, and to any license or contract granted or made relating thereto, which shall remain in force according to the true intent thereof.

5. In case of subsisting Copyright when an Author has assigned a Moiety or

And be it Enacted, That in all cases in which the Copyright in any 40 Book shall be subsisting at the time of passing this Act, and a moiety or other portion of the Author's entire term and interest therein shall have been assigned, and the residue of such interest, either absolutely

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or subject to any charge or encumbrance, shall remain in such Author, or his personal representative, legatee, widow, next of kin, or other person claiming in the course of the administration of the estate of such Author, such Copyright shall continue until the expiration of Sixty Years from the death of such Author, and shall belong to such Author, or his personal representative, legatee, widow or next of kin, or other person claiming in the course of the administration of the estate of such Author and to such assignee in the same proportions as the Copyright in such Book shall at the time of the passing this Act belong to such 10 Proprietors thereof respectively, subject to the subsisting terms of such assignment, or of any contract subsisting between such Proprietors, and also subject to any subsisting charge on the whole or any portion of the interest of either of such Proprietors, or any license or contract granted or entered into by them, or any or either of them, relating thereto, which shall remain in force according to the true intent thereof.

other portion of his entire term, such Copyright shall continue for Sixty Years from the Author's death, and belong to the Author and the Assignee in the same proportions as the subsisting Copyright.

And be it Enacted, That in all cases in which the Copyright in any Book shall be subsisting at the time of passing this Act, and the Author thereof shall before the passing of this Act have assigned or agreed to assign his whole interest in such Copyright for other consideration than natural love and affection, such Copyright shall continue and belong to the assignee thereof and his assigns until the expiration of the term of Twenty-eight Years from the first publication of such Book, and in case the Author shall then be living, for the residue of the life of such Author; and upon the expiration of the said term of Twenty-eight Years, if the Author shall then be dead, or otherwise at the death of such Author, the Copyright in such Book shall cease.

6. In cases of subsisting Copyright which has been absolutelyassigned by the Author, the Assignee shall enjoy the same for the term of Twenty-eight Years, and of the Author's life, if he survive Twenty-eight Years, and no longer.

And be it Enacted, That in case at any time after the expiration of such term of Copyright in any work as by law defined before and at the passing of this Act, and during the subsistence of the term of Copyright under this Act in any Book, such Book shall be out of print, and a period of Five Years shall have elapsed without the publication of an edition of such Book, it shall be lawful for any person desirous of republishing the same, to give notice by advertisement 35 inserted in the London Gazette once in each week for Three successive weeks, and in cases where an entry of or relating to the Copyright of such Book shall have been made in the Registry hereinafter mentioned, by writing under his hand, addressed to every party who shall appear by such entry to be a proprietor of the Copyright of such Book, or to have 40 any subsisting interest in such Copyright, and left at the last place of publication of such Book, and at the last known place of abode of every such proprietor and party interested as aforesaid, that the said 19.

In cases where, after the expira-tion of the term of Twenty-eight Years, or the Author's life. a book shall be out of print, and Five Years shall elap without the appearance of an edition it shall be lawful for any person. after certain notice, to re-publish such Book, and to enjoy the Copyright

Book is out of print, and that it is the intention of such person to republish the same; and it shall be lawful for such person, after the insertion of such advertisements, and the giving of such notice, where such notice shall be required, if no new édition of such Book shall in the meantime be published, at the expiration of Twelve calendar Months, to be computed from the time of the insertion of the last of such advertisements, or the giving such notice, to republish such Book; and upon such republication the Copyright of such Book shall belong to the person who shall have inserted such advertisements or given such notice for the residue of the term of Copyright then subsisting by virtue of this Act, and subject to the provisions of this Act.

8. One Copy of every Book to be delivered at the British Museum.

And be it Enacted, That a printed Copy of the whole of every Book, and of any second or subsequent Edition of every Book containing additions or alterations, which shall be published after the passing of this Act, bound, sewed or stitched together, and upon the best paper on which the same shall be printed, together with all Maps, Prints or other Engravings belonging thereto, finished and coloured in the same manner as the best Copies of the same shall be published, shall within One calendar Month after the day on which any such Book shall be first sold, published or offered for sale within the Bills of Mortality, or within Three calendar Months if the same shall be exclusively sold, published, advertised or offered for sale in any other part of the United Kingdom, be delivered on behalf of the Publisher thereof at the British Museum.

9. Mode of delivering at the British Museum.

And be it Enacted, That every Copy of any Book, which under the 25 provisions of this Act ought to be delivered as aforesaid, shall be delivered at the British Museum between the hours of Ten in the forenoon and Four in the afternoon, on any day in the week except Sunday, to the Librarian or one of the Librarians or Officers of the said Museum, or to some person authorized by the Trustees of the said Museum to 30 receive the same, and such Librarian, Officer or other person receiving such Copy is hereby required to give a receipt in writing for the same, and such delivery shall to all intents and purposes be deemed to be good and sufficient delivery under the provisions of this Act.

10. A Copy of every Book to be delivered within a Month after demand for the use of the following Libraries Bodleian Librarv, Public Library at Cambridge, Advocates of

And be it Enacted, That a Copy of the whole of every Book, and of any second or subsequent Edition of every Book containing additions and alterations, together with all Maps and Prints belonging thereto, which after the passing of this Act shall be published, shall, on demand thereof in writing left at the place of abode of the Publisher thereof at any time within Twelve Months next after the publication thereof, under the hand of the Officer of the Company of Stationers who shall from time to time be appointed by

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the said Company for the purposes of this Act, or under the hand of any other person thereto authorized by the Persons or Bodies Politic lege, Dublin. and Corporate, Proprietors and Managers of the Libraries following, (videlicet) the Bodleian Library at Oxford, the Public Library at Cambridge, the Library of the Faculty of Advocates at Edinburgh, the Library of the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, be delivered, in the like condition as the Copies prepared for sale by the Publisher thereof respectively, within One Month after demand made thereof in writing as afore-10 said to the said Officer of the said Company of Stationers for the time being, which Copies the said Officer shall and he is hereby required to receive at the Hall of the said Company for the use of the Library for which such demand shall be made within such Twelve Months as aforesaid; and the said Officer is hereby required to give 15 a receipt in writing for the same, and within One Month after any such Book shall be so delivered to him as aforesaid, to deliver the same for the use of such Library.

Provided also, and be it Enacted, That if any Publisher shall be desirous of delivering the Copy of such Book as shall be demanded on behalf of any of the said Libraries at such Library, it shall be lawful for him to deliver the same at such Library free of expense to such Librarian or other person authorized to receive the same (who is hereby required in such case to receive and to give a receipt in writing for the same), and such delivery shall to all intents and pur-25 poses of this Act be held as equivalent to a delivery to the said Officer of the Stationers' Company.

11. **Publishers** may deliver the Copies to the Libraries instead of the Stationers Company.

And be it Enacted, That if any Publisher of any Book, or of any second or subsequent Edition of any Book containing additions or alterations, which shall be published after the passing of this Act, shall, 30 having been thereunto lawfully required, neglect to deliver the same pursuant to this Act, he shall for any such default forfeit, besides the value of such Copy of such Book or Edition which he ought to have delivered, the sum of Five Pounds, to be recovered by the Librarian of the Library for the use whereof such Copy should have been 35 delivered in a summary way, on conviction before Two Justices of the Peace for the county or place where the Publisher making default shall reside, or by action of debt at the suit of such Librarian in any Court of Record in the United Kingdom, in which action, if the Plaintiff shall obtain a verdict, he shall recover his costs reasonably in-40 curred, to be taxed as between attorney and client.

12. Penalty for default in delivering Copies for the use of the Libraries.

And be it Enacted, That a Book of Registry, wherein may be registered, as hereinafter enacted, the proprietorship in the Copyright in Books and assignments thereof, and licenses of and affecting such

Book of Registry to be kept at Stutioners' Hall.

19.

· Copyright,

Copyright, shall at all times be kept at the Hall of the Stationers' Company by the Officer appointed by the said Company for the purposes of this Act, and shall at all convenient times be open to the inspection of any person, on payment of One Shilling for every entry which shall be searched for or inspected in the said Book; and that such Officer shall, whenever thereunto reasonably required, give a copy of any entry in such Book, certified under his hand, and impressed with the seal or stamp of the said Company, to any person requiring the same, on payment to him of the sum of Five Shillings; and such copies so certified and impressed shall be received in evidence in all Courts and in all summary proceedings, and shall be deemed and taken to be prima facie proof of the proprietorship or assignment of Copyright or license as therein expressed, but subject to be rebutted by other evidence.

Party making or causing to be made a false Entry in the Book of Registry to be guilty of a Misdemeanor.

And be it Enacted, That if any person shall wilfully make or cause 15 to be made any false entry in the Registry Book of the Stationers' Company, or shall wilfully produce or cause to be tendered in evidence any paper falsely purporting to be a copy of any entry in the said Book, he shall be guilty of an indictable Misdemeanor, and shall be punished accordingly.

15.
Entries of
Copyright
may be made
in the Book of
Registry.

And be it Enacted, That after the passing of this Act it shall be lawful for the Proprietor of Copyright in any Book heretofore published, or in any Book hereafter to be published, to make entry in the Registry Book of the Stationers' Company of the title of such Book, the time of the first publication thereof, the name and place of abode of 25 the Publisher thereof, and the name and place of abode of the Proprietor of the Copyright of the said Book, and of the interest of any person who may have been entitled to or interested in such Copyright, by virtue of any assignment, in the form in that behalf given in the Schedule to this Act annexed, upon payment of the sum of Five Shillings to the officer of the said Company; and that it shall be lawful for every such registered Proprietor of Copyright, and every person whose assignment or license shall appear in the said Registry, to assign his interest therein, or any portion thereof, by making entry in the said Book of Registry of such assignment, and 35 of the name and place of abode of the assignee thereof, in the form given in that behalf in the said Schedule, on payment of the like sum; and such assignment so entered shall be effectual in law to all intents and purposes whatsoever, without being subject to any Stamp or Duty, and shall be of the same force and effect 40 as if such assignment had been made by deed: Provided always. That no original entry of the proprietorship of the Copyright in or to any Book hereafter to be published shall be made without

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the concurrence, expressed in writing, of the Publisher by whom such Book shall be published, according to the form in that behalf given in the said Schedule.

- And be it Enacted, That if any person shall deem himself aggrieved by any entry made under colour of this Act in the said Book of Registry, it shall be lawful for such person to apply by Petition, supported by Affidavit, to the Lord High Chancellor, Master of the Rolls or Vice Chancellor, or to apply by motion to the Court of Queen's Bench, Court of Common Pleas or Court of Exchequer, in 10 Term time, or to apply by Summons to any Judge of either of such Courts in Vacation, for an order that such entry may be expunged or varied; and that upon any such Petition it shall be lawful for the Lord High Chancellor, Master of the Rolls or Vice Chancellor, upon hearing the matter of such Petition, if the parties petitioned against 15 appear, or on due proof of the service of such Petition on all such parties as he shall think necessary, in case such parties do not appear, or upon being satisfied that reasonable ground exists for such parties not having been served with such Petition, to make such order for expunging, varying or confirming such entry, and as to the costs of such application, as to him shall seem just; and upon any such application by Motion or Summons to either of the said Courts, or to a Judge as aforesaid, such Court or Judge shall make such order for expunging, varying or confirming such entry, either with or without costs, as to such Court or Judge shall seem just; and the officer 25 appointed by the Stationers' Company for the purposes of this Act shall, on the production to him of any such order for expunging or varying any such entry, expunge or vary the same according to the requisitions of such order.

16. If any person be aggricved by any entry in the Boo of Registry he may apply to the Lord Chancellor, Master of the Rolls, Vice Chancellor, Court of Law in Term, or Judge in Vacation, who may order such entry to be varied or expunged.

And be it Enacted, That if any person shall in any part of the British 30 Dominions, after the passing of this Act, print or cause to be printed either for sale or exportation any Book in which there shall be subsisting Copyright, or any Book containing any portion of a Book in which there shall be such Copyright, to such extent as shall be injurious to the property therein, without the consent in writing of the Proprietor thereof. or shall import any such Book so having been unlawfully printed from parts beyond the sea, or knowing such Book to have been so unlawfully printed or imported, shall sell, publish or expose to sale, or cause to be sold, published or exposed to sale, or shall have in his possession for sale any such Book so unlawfully printed or imported, without such consent as aforesaid, such offender shall be liable to a special action on the case at the suit of the Proprietor of such Copyright, to be brought in any Court of Record in that part of the British Dominions in which the offence shall be committed, and every such Proprietor shall

17. Remedy for the Piracy of Books or parts of Books by Action on the

Proviso for Scotland.

shall in such action recover such damages as the Jury, on the trial of such action, or on the execution of a writ of inquiry thereon, where the trial shall be by Jury, or the Court in which such trial shall be had, where there shall be no Jury, shall give or assess (not being in any case less than Forty Shillings), with all costs of suit reasonably incurred, to be taxed as between attorney and client: Provided always, That in Scotland such offender shall be liable to an action in the Court of Session in Scotland, which shall and may be brought and prosecuted in the same manner in which any other action of damages to the like amount may be brought and prosecuted there; and in any such 10 action where damages shall be awarded, all reasonable costs of suit or expenses of process shall be allowed as between attorney and client: Provided always, That nothing herein contained shall be construed to extend to the publication of any extracts fairly and bonâ fide made from any Book for the purpose of criticism, observation or argument, 15 or to any Abridgment of a Book fairly and bona fide made, or to any translation of any Book into another language; but the Copyright in every translation shall be deemed to be the property of the Translator thereof and his assigns as though it were an original work.

18.
In Actions for Piracy, the Defendant to give notice in writing of the objections to the Plaintiff's title on which he means to rely.

And be it Enacted, That after the passing of this Act, in any Action brought within the British dominions against any person for printing any such Book or portion of a Book as aforesaid, or for importing, selling, publishing or exposing to sale, or causing to be imported, sold, published or exposed to sale, any such Book or portion as aforesaid, the Defendant on pleading thereto shall give to the Plaintiff 25 a notice in writing of any objections on which he means to rely on the trial of such action; and if the nature of his defence be, that the Plaintiff in such action was not the Author or first Publisher of the Book in which he shall by such action claim Copyright, or is not the proprietor of the Copyright therein, or that some other person than the 30 Plaintiff was the Author or first Publisher of such Book, then the Defendant shall specify in such notice the name of the person who he alleges to have been the Author or first Publisher of such Book, or the proprietor of the Copyright therein, together with the title of such Book, and the time when and the place where such Book was first published, 35 otherwise the Defendant in such action shall not at the trial or hearing of such action be allowed to give any evidence that the Plaintiff in such action was not the Author or first Publisher of the Book in which ne claims such Copyright as aforesaid, or that he was not the proprietor of the Copyright therein; and at such trial or hearing no other 40 objection shall be allowed to be made on behalf of such Defendant than the objections stated in such Notice, or that any other person was the Author or first Publisher of such Book or the proprietor of the Copyright therein than the person specified in such Notice, or

give in evidence in support of his defence any other Book than one substantially corresponding in title, time and place of publication, with the title, time and place specified in such Notice.

AND whereas it would greatly tend to the suppression in the British Dominions of the piracy of Books first printed and published in the United Kingdom, wherein Copyright shall be subsisting at the time of the passing of this Act, if greater facilities than are now provided by law were given for proof in all the Courts of Her Majesty's Dominions of the publication of Books wherein Copyright shall subsist, and of the identity of Books wherein Copyright shall be claimed, with such Certificate of Registry as hereinbefore mentioned, and of the decrees, orders, judgments and proceedings in the Courts of the United Kingdom in all causes, petitions and proceedings relating to Copyright and the piracy thereof; BE it therefore Enacted, That after the passing of this Act the Officer of the said Company of Stationers shall, whenever thereunto reasonably required, upon production to him of any Book purporting to have been printed and appearing to him to have been printed within any part of the United Kingdom, corresponding in title, name and place of abode of the registered Publisher and Proprietor 20 thereof, with the title, name and place of abode so entered in such Registry as aforesaid, to certify in the same Book or Copy under his hand and the seal or stamp of the said Company of Stationers, that the same is a Book or Copy of the same Book to which such Certificate of Registry shall relate, on payment to him of the sum of Five Shillings, 25 and such Book so certified, purporting to be signed by the officer making the same, and impressed with the seal or stamp of the Stationers' Company, shall at all times be admitted and received in all Her Majesty's Supreme and other Courts of Judicature in the British Dominions, in all proceedings under this Act, as primâ facie proof of the publication 30 of such Book, and of the identity of the same, with the Book to which such Certificate of Registry shall relate; and that Office Copies of all decrees, orders, judgments and proceedings in any of the Courts of the United Kingdom, certified by the proper officer of such Courts to be true copies, and purporting to be sealed or stamped with the seal or 35 stamp of such Courts respectively, shall at all times be admitted and received in all Her Majesty's Supreme and other Courts of Judicature in the British Dominions as sufficient prima facie evidence of the several matters and things therein contained, without any other proof being required of the same, but subject to be rebutted by other 40 evidence.

19. Mode of prov-ing the Publication and Identity of Books in **Proceedings** for Piracy.

And be it Enacted, That after the passing of this Act it shall not No Person be lawful for any person to import into any part of the United Kingdom, or into any other part of the British Dominions, for sale, any printed Book, first composed, or written or printed and published in 19.

into any part of the British Dominions for sale any Book first composed.

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&c. within the British Dominions and reprinted elsehere. Penalty on importing, selling or keeping for sale any such Books, forfeiturethereof, and also 10 l. and double the value. Books may he seized by Officers of Customs or Excise, who shall be rewarded.

any part of the said United Kingdom, and re-printed in any country or place whatsoever out of the British Dominions; and if any person shall import or bring, or cause to be imported or brought for sale any such printed Book into any part of the British Dominions contrary to the true intent and meaning of this Act, or shall knowingly sell, publish or expose to sale, or have in his possession for sale any such Book, then every such Book shall be forfeited, and shall be seized by any Officer of Customs or Excise, and the same shall be destroyed by such Officer; and every person so offending being duly convicted thereof before Two Justices of the Peace for the county or place in which such Book shall be found, shall also for every such offence forfeit the sum of Ten Pounds, and Double the value of every Copy of such Book which he shall so import or cause to be imported into any part of the British Dominions, or shall knowingly sell, publish or expose to sale, or shall cause to be sold, published or exposed to sale, or shall have in his possession for sale contrary to the true intent and meaning of this Act, to the use of the Proprietor of the Copyright in such Book: Provided always, That no person shall be liable to any of the last-mentioned penalties or forfeitures by reason of the importation of any Book which has not been printed or reprinted in some part of the British Dominions within Twenty Years next before the same shall be imported, or of any Book re-printed abroad and inserted among other Books or Tracts to be sold therewith in any collection where the greatest part of such collection shall have been composed or written abroad.

Not to extend to Books not having been printed in the United Kingdom for Twenty Years.

21. Copyright in Encyclo-pædias, Peripædias. odical Works, and Works published in Series, to be in the Pub-Conductor thereof, and proof of pay ment to the parties employed by him to be prima facie evidence of his pro-perty in their Articles.

And be it Enacted, That when any Publisher or other person shall, before or at the time of the passing of this Act, have projected, conducted and carried on, or shall hereafter project, conduct and carry on, any Encyclopædia, Review, Magazine, Periodical Work, or Work published in a series of Books or Parts, and shall have employed or shall employ any persons to compose the same, or any Volumes, Parts, Essays, Articles, or portions thereof, for publication in or as part of the same, and such Work, Volumes, Parts, Essays, Articles, or portions, shall have been or shall hereafter be composed under such employment, and paid for by such Projector, Publisher or Conductor, the Copyright in every such Encyclopædia, Review, Magazine, Periodical Work, and Work published in a series of Books or Parts, and in every Volume, Part, Essay, Article and portion so composed and paid for, shall be the property of such Projector, Publisher or other Conductor, who shall enjoy the same rights as if he were the actual Author thereof, and shall have such 40 term of Copyright therein as is given to the Authors of Books by this Act; and the receipt for or other proof of the payment of the price agreed for and given by such Projector, Publisher or other Conductor as aforesaid, to every person so employed by him in respect of the composition

position forming such Work, Volume, Part, Essay, Article or Portion, shall be prima facie evidence of such employment, and of the Copyright in the composition so supplied under such employment, being vested in such Projector, Publisher or Conductor as aforesaid, without any formal or other assignment of property therein: Provided always, That nothing herein contained shall alter or affect the right of any person who shall have been or who shall be so employed as aforesaid, to publish any such his composition in a separate form, who, by any contract, express or implied, may have reserved or may hereafter reserve to himself such right; but every Author reserving, retaining or having such right, shall be entitled to the Copyright in such composition when published in a separate form, according to this Act, without prejudice to the right of such Projector, Publisher or Conductor as aforesaid.

Proviso securing the right of Authors who have reserved the right of publishing their Articles in a separato form.

And be it Enacted, That the Proprietor of the Copyright in any Encyclopædia, Review, Magazine, Periodical Work, or other Work published in a series of Books or Parts, shall be entitled to all the benefits of the registration at Stationers' Hall under this Act, on entering in the said Book of Registry the title of such Encyclopædia, Review, Periodical Work, or other Work published in a series of Books or Parts, the time of the first publication of the first Volume, Number or Part thereof, and the name and place of abode of the Proprietor thereof, and of the Publisher thereof, when such Publisher shall not also be the Proprietor thereof.

22. **Proprietors** of Encyclo-pædias, Periodical Works, and Works published in Series to be at liberty to enter at once at Stationer's Hall, and thereon to have the benefit of the Registration of the whole Work.

AND whereas an Act was passed in the third year of the reign of his late Majesty, to amend the Laws relating to Dramatic Literary Property, and it is expedient to extend the term of the sole liberty of representing Dramatic Pieces given by that Act to the full term by this Act provided for the continuance of property of Authors in the Copyright of Books; BE it therefore Enacted, That the sole liberty of representing or causing to be represented any Dramatic Piece composed and not published, or which shall hereafter be composed and published at any place of public entertainment in any part of the British Dominions, shall be the property of the Author or Composer thereof, his executors, administrators and assigns, for the term of the natural life of the Author or Composer thereof, and for the further term of Sixty Years, commencing at the time of his death.

23.
Term of the exclusive right in the representation of Dramatic Works extended to that of Authors.

And be it Enacted, That in all cases in which the sole liberty of representing and causing to be represented any Dramatic Piece shall at the time of passing this Act belong to the Author thereof, either absolutely or subject to any license or partial assignment, such sole liberty shall continue for the term of the natural life of such Author, and for the further term of Sixty Years, commencing from the death

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Where the sole liberty of representing a Dramatic Piece now belongs to the Author, it shall endure for his life and for Sixty

Years from his death.

And if the Author is dead, his Representatives shall have it for Sixty Years from his death

of such Author; and that in all cases in which such sole liberty of representing and causing to be represented any Dramatic Pieces shall be subsisting, but the Author thereof shall be dead at the time of passing this Act, such sole liberty of representing and causing to be represented such Dramatic Piece shall either absolutely, or subject to any license or partial assignment thereof, belong to the personal representative, or to the legatee, widow or next of kin of such Author or other person who may have acquired the same in the course of administration of the estate of such Author; and such sole liberty of representing and causing to be represented such Dramatic Piece 10 shall continue for the residue of the term of Sixty Years, commencing at the time of the death of such Author.

When the right of representing any Dramatic Piece shall have been assigned, the right shall continue in the Assignee for Twenty-eight Years, or for the life of the Author, and no longer.

And be it Enacted, That in all cases in which the sole liberty of representing and causing to be represented any Dramatic Piece shall be subsisting at the time of passing this Act, and the Author thereof 15. shall before the passing of this Act have assigned his interest in such sole liberty of representing and causing to be represented such Dramatic Piece, such right shall continue and belong to such assignee until the expiration of the term of Twenty-eight Years from the first representation of such Dramatic Piece; and if the Author thereof shall then be 20 living, for the residue of the life of such Author; and upon the expiration of the said term of Twenty-eight Years if the Author shall be then dead, or if he shall then be living, at the time of his death, such sole liberty of representing and causing to be represented such Dramatic Piece shall wholly determine and cease.

26. The Proprietor of the right of Dramatic Repre sentation shall have all the Remedies given by the Act 3 & 4 W. 4.

And be it Enacted, That the party who shall at any time have the sole liberty of representing such Dramatic Piece shall have and enjoy the remedies given and provided in the said Act of the third and fourth years of the reign of his late Majesty King WILLIAM the Fourth, passed to amend the Laws relating to Dramatic Literary 30 Property, during the whole of his interest therein, as fully as if the same were re-enacted in this Act.

27. No Assign-ment of Copyright of a Dramatic Piece shall convey the right of Representation unless an Entry to that effect shall be made in the Book of Registry.

And be it Enacted, That no assignment of the Copyright of any Book consisting of or containing a Dramatic Piece shall be holden to convey to the assignee the right of representing such Dramatic Piece, 35 unless an entry in the said Registry Book shall be made of such assignment, wherein shall be expressed the intention of the parties that such right should pass by such assignment.

28. Act of 5 & 6 W. 4, c. 65, respecting Lectures extended to Sermons.

AND whereas an Act was passed in the fifth and sixth years of the reign of his late Majesty King WILLIAM the Fourth, for preventing the 40 publication of Lectures without consent, and it is expedient to extend the provisions of the said Act to Sermons; BE it Enacted, That all

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the enactments, penalties and provisions of the said Act relating to Lectures delivered in public shall be and the same are hereby extended to all Sermons which after the passing of this Act shall be delivered in any church, chapel or place of religious worship authorized by law as effectually as if the same were re-enacted in this Act.

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AND for the more speedy and effectual prevention of piracy of Copyright, BE it Enacted, That after the passing of this Act it shall be lawful to and for the Lord Chancellor or Master of the Rolls for the time being in England and Ireland, and for the Vice-Chancellor in 10 England for the time being, at any time, upon application by petition, in a summary way, and for the Court of Queen's Bench, or Court of Common Pleas, or Court of Exchequer in England and Ireland respectively, in Term time, and for any Judge of the said last-mentioned Courts, or any or either of them, in vacation, and for the Supreme Courts of 15 Judicature at Fort William, in Bengal, Madras or Bombay, and to and for any of the Supreme or Upper Courts of Judicature in any part of Her Majesty's British Dominions not hereinbefore particularly mentioned, upon application by motion, in a summary way, supported by affidavit, or such other evidence as shall be produced in support of the 20 same, after hearing, or on due proof of service of such petition, or of notice of such motion upon all such parties as he or they shall think necessary, or in case any such party or parties shall not have been served with such petition or with notice of such motion, upon being satisfied, by affidavit, that reasonable ground exists for such party or parties not having been so served, or if he or they shall think fit, without hearing any party, to make such orders for the issuing of an Injunction to restrain the printing, publishing, selling, disposing of and exposing to sale of any Book which, without the consent in writing first had and obtained of every person who shall appear by such registry as aforesaid to be interested in the Copyright of any Book wherein copyright shall subsist, shall have been copied from such Book, or any part thereof, and for the issuing of an Injunction to restrain the sale of any Book so unlawfully imported as aforesaid, or for the issuing of an Injunction for any of such purposes, and for the continuing and enforcing or dissolving any such Injunction, as according to the course and practice of each of such Courts respectively can or may now be made in a suit regularly instituted; and also in any case where any such Injunction as aforesaid shall have been issued upon the like application as aforesaid, supported as aforesaid, to make such order for or on account of the profits of or arising from the sale of any Book which, without such consent as aforesaid, shall have been copied in the whole or in part, or which shall have been so unlawfully pirated imported as aforesaid, wherein Copyright shall subsist, as according to the course and practice of such Courts respectively can or may now be made upon the hearing of a suit regularly instituted; and also upon the

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29. Power to grant Injunctions in case of Piracy.

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making of any such application as aforesaid, or at any time afterwards upon the like application as aforesaid, supported as aforesaid, to make such order as to the costs of such applications as aforesaid, or any of them, as to them or him shall seem meet; and that every order so made as aforesaid shall be of the same force and effect, and shall be carried on and prosecuted and enforced in the like manner and to the like processes as the same or the like orders made in any suit regularly instituted can and may according to the course and practice of such Courts respectively now be carried on, prosecuted and enforced, and that every such order shall be final and conclusive to all intents and purposes: 10 Provided always, That upon any such application as aforesaid for the issuing, continuing or dissolving any such Injunction as aforesaid being made to any such Court or Judge as aforesaid, it shall be in the discretion of the said Court or Judge to direct a Bill to be filed, or an action to be brought, or an issue to be tried for establishing the right of the party 15 applying or who shall have applied for such Injunction, and in the meantime either to grant, or continue or dissolve, or refuse to grant, continue or dissolve such Injunction, or to impose such terms upon the party by or against whom the same shall be or shall have been applied for as to the said Court or Judge shall seem meet: Provided always, That 20 nothing herein contained shall prevent the Courts of Law in Scotland from granting to the Proprietor of any Copyright under this Act, in case of any infringement, actual or intended, of such Copyright, such remedy, by interdict or otherwise, as they have been used to grant before the passing of this Act...

Proviso for Scotland.

30. Mode of proving Copyright .. in Colonial Courts.

And be it Enacted, That in all cases in which application shall, under the provisions of this Act be made to the Supreme Courts of Judicature at Fort William, in Bengal, Madras or Bombay, or to any of the Supreme or Upper Courts of Judicature in Her Majesty's other British Dominions not hereinbefore particularly mentioned, for 30 the issuing, continuing, enforcing or dissolving any such Injunction as aforesaid, a Copy of the Book to which such application shall relate, having therein such certificate of publication and identity as aforesaid, shall, unless rebutted by other evidence, he and be deemed sufficient evidence of such publication and identity, and a copy of any 35. entry contained in the said registry in relation to such Book, bearing date at any time within Twelve calendar Months next before the hearing of such application, and so certified, and purporting to be signed and bearing such seal or stamp as aforesaid, shall, unlessrebutted by other evidence, be and be deemed sufficient evidence 40 of the Copyright in such Book being vested in and belonging to the person to whom the same shall by the said copy of the said entry appear to belong.

And

the Property of the Proprietor of the Copyright, and may be recovered by Action, or seized by Warrant of Two Justices.

And be it Enacted, That all Copies of any Book wherein there shall be Copyright, and of which entry shall have been made in the said Registry Book, and which shall have been unlawfully printed or imported without the consent of the registered Proprietor of such Copyright, in writing under his hand first obtained, shall be deemed to be the property of the party registered as the immediate Proprietor of such Copyright, and such registered Proprietor shall, after demand thereof in writing, be entitled to sue for and recover the same, or damages for the detention thereof, in an action of Detinue from any 10 party who shall detain the same, or to sue for and recover damages for the conversion thereof in an action of Trover; and it shall be lawful for any Two Justices of the Peace for the county, city, division, place, settlement, or colony, wherein such Copies of any Book shall be found, upon the information and complaint of such registered 15 Proprietor of the Copyright or his Attorney, to summon before them the party in whose possession such Copies shall be found, and on proof of the entry of such Book in the said Book of Registry and of the printing thereof, without such consent of the registered Proprietor, and of demand in writing made of the party in whose possession such 20 Copies shall be, to issue their warrant for the seizure of such Copies, and for the delivery thereof to such Complainant or his Attorney: Provided always, That such warrant shall not be holden conclusive as against the possessor of such Copies of his right to the same, but that he may question the right to issue such warrant in any action 25 of Trespass to be brought against the party on whose complaint such warrant shall be granted: Provided always, That no action shall be brought against any Justice, Constable or Officer acting bona fide in the execution of the powers of this Act.

And be it Enacted, That no Proprietor of Copyright in any Book 30 which shall be first published after the passing of this Act, shall maintain any action or suit at law or in equity, or any summary proceeding in respect of any infringement of such Copyright, unless he shall, before commencing such action, suit or proceeding, caused an entry to be made in the Book of Registry of the Stationers' 35 Company of such Book pursuant to this Act: Provided always, That the omission to make such entry shall not affect the Copyright in any Book, but only the right to sue or proceed in respect of the infringement thereof as aforesaid: Provided also, That nothing herein contained shall prejudice the remedies which the Proprietor of the sole liberty of Pieces. 40 representing any Dramatic Piece shall have by virtue of the Act passed in the third year of the reign of his late Majesty King WILLIAM the Fourth, to amend the Laws relating to Dramatic Literary Property, or of this Act, although no entry shall be made in the Book of Registry aforesaid.

32. No Proprietor of Copyright, commencing shall sue or proceed for any Infringe ment before making entry in the Book of Registry.

Proviso for

33.
Clergymen may lawfully dispose of Copyright or Copies of Books of which they are the Authors.

AND whereas a doubt has arisen whether a Spiritual Person, having or holding any dignity, prebend, canonry, benefice, stipendiary, curacy or lectureship, and being the Author of any Book, may lawfully dispose of the Copyright thereof, or any Copies thereof, and it is expedient to remove such doubt; BE it therefore Enacted, That every Spiritual Person, being the Author of any Book, may lawfully dispose of the Copyright of the same, or of any Copies thereof, for his own profit, any law or usage to the contrary notwithstanding.

34. Copyright shall be personalty.

And be it Enacted, That all Copyright shall be deemed personal property, and shall be transmissible by bequest, or, in case of intestacy, 10 shall be subject to the same law of distribution as other personal property, and in Scotland shall be deemed to be personal and movable estate.

35.
Saving the Rights of the Universities and the Colleges of Eton, Westminster and Winchester.

Provided always, and be it Enacted, That nothing in this Act contained shall affect or alter the rights of the two Universities of Oxford 15 and Cambridge, the Colleges or Houses of Learning within the same; the four Universities in Scotland; the College of the Holy and Undivided Trinity of Queen Elizabeth near Dublin, and the several Colleges of Eton, Westminster and Winchester, in any Copyrights heretofore and now vested or hereafter to be vested in such Universities 20 and Colleges respectively, any thing to the contrary herein contained notwithstanding.

36.
Proviso for saving all Rights and all Contracts and Engagements subsisting at the time of passing this Act.

Provided also, and be it Enacted, That nothing in this Act contained shall affect, alter or vary any right subsisting at the time of passing of this Act, except as herein expressly enacted, and all contracts, agree- 25 ments and obligations made and entered into before the passing of this Act, and all remedies relating thereto, shall remain in full force, anything herein contained to the contrary notwithstanding.

37. Act to extend to all parts of the British Dominions.

And be it Enacted, That this Act shall extend to the United Kingdom of Great Britain and Ireland, and to every part of the British 30 Dominions.

38.
Act may be amended or repealed during the present Session.

And be it Enacted, That this Act may be amended or repealed by any Act to be passed in the present Session of Parliament.

SCHEDULE

SCHEDULE to which the preceding ACT refers.

-No. 1.-

ORIGINAL ENTRY of PROPRIETORSHIP of COPYRIGHT of a BOOK.

Time of making the Entry.	Title of Book.	Name of the Publisher, and Place of Publication.	Name and Place of Abode of the Proprietor of the Copyright.	Date of First Publication.
1st Sept. 1839.	[Here set out the title of the Book.]	William Smith, of Piccadilly, London.	Henry Williams, of Edinburgh, Esquire.	1st September 1839.
	·			

-No. 2.-

FORM of CONCURRENCE of the Publisher of a Book, first entered to be signed by him, and delivered to the Office of the Stationers' Company previous to such Entry.

I, A. B., of [name of Publisher, and place in which he carries on business], Bookseller and Publisher, do hereby certify, That I am [or, am about to be] the Publisher of a Book, entitled [here set out the title of the Book], and that I concur in the entry to be made thereof in the Registry Book of the Stationers' Company, according to the particulars hereunder written. Dated this day of

[Here set forth the proposed Form of the Entry.]

A. B.

— No. 3. —

FORM of Entry of Assignment of Copyright in any Book previously registered.

Date of Entry.	Title of Book.	Assigner of the Copyright.	Assignee of Copyright.
1st Sept. 1839	[Set out the title of the Book, and refer to the page of the Registry Book in which the original entry of the Copyright thereof is made].	Henry Williams, of Edinburgh, Esquire.	George Jones, of Cheap- side, London, Bookseller and Publisher

Copyright.

A

IL

To amend the Law of Copyright.

(Prepared and brought in by Mr. Serjeant Talfourd, Mr. Chancellor of the Exchequer, Sir Robert Harry Inglis, and Lord Viscount Muhon.)

Ordered, by The House of Commons, to be Printed,
12 February 1839.

19.



A

To secure to Proprietors of Designs for Articles of Manufacture the Copyright of such Designs for a limited Time.

[Note.—The Words printed in *Italics* are proposed to be inserted in the Committee.]

PREREAS it is expedient that provision should be made Preamble. for securing the exclusive benefit of Designs for Articles of Manufacture to the Authors and Proprietors thereof for a limited time; BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT every Proprietor of a new and original Design made for any of the following purposes, and not right. published before the One thousand 10 eight hundred and Thirty-eight, shall have the sole right to use the same for any such purpose during the term of calendar Months, to be computed from the time of the same being registered according

For the pattern or print to be either worked into or worked on or printed on, or painted on any Article of Manufacture being a tissue or textile fabric, except Linens, Cottons, Calicoes, Muslins, and any other article within the meaning of the Acts mentioned in the Schedule hereto annexed.

to this Act; and the following are the purposes referred to:

- Second. For the shape or configuration of any Article of Manufacture, except Linens, Cottons, Calicoes, Muslins, and any other article within the meaning of the Acts mentioned in the Schedule hereto annexed.
- Third. For the modelling, or the casting, or the embossment, or the chasing, or the engraving, or for any other kind of impression or ornament on any Article of Manufacture not being a tissue or textile fabric.

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Conditions of Copyright.

But no person shall be entitled to the benefit of this Act, unless the Design have before publication been registered according to this Act, and unless such person be registered according to this Act, as the Proprietor of the Design, and unless after publication of the Design every Article of Manufacture published by him, on which such Design is used, have thereon the name of the first-registered Proprietor, and the number of the Design in the Register, and the date of the registration thereof.

Proprietor explained.

And the Author of every such new and original Design shall be considered the Proprietor, unless he have executed the work on behalf of another person for a valuable consideration; in which case such person shall be considered the Proprietor, and shall be entitled to be registered in the place of the Author; and every person purchasing for a valuable consideration a new and original Design, or the exclusive right to use the same for any one or more of the above-mentioned purposes, shall be considered as the Proprietor of the Design, for all or any one or more of such purposes, as the case happens to be.

2. Transfer of Copyright, and Register thereof.

And be it Enacted, That every person purchasing a new and original Design may enter his title in the Register hereby provided; and any writing purporting to be a transfer of such Design, and signed by the Proprietor thereof, shall, without any stamp, operate as an effectual transfer; and the Registrar shall, on request, and the production of such writing, insert the name of the new Proprietor in the Register; and the following may be the form of such transfer and of such request to the Registrar.

FORM of TRANSFER and AUTHORITY to REGISTER.

"I, A. B., Author (or Proprietor) of Design Number having transferred my right thereto (or if such transfer be partial) so far as regards the making of (describe the articles of manufacture with respect to which the right is transferred) to B. C., of do hereby authorize you to insert his name on the Register of Designs accordingly."

FORM of REQUEST to REGISTER.

" I, B.C., the person mentioned in the above transfer, do request you to register my name and property in the said Design, according to the terms of such transfer.

3.
Penalties for Piracy.

And be it Enacted, That during the existence of such exclusive right no person shall either do, or cause to be done, any of the following acts in regard to a registered Design, without the license or consert in writing of the registered Proprietor thereof; (that is to say)

No

No person shall use for the purposes aforesaid, or any of them, or print or work, or copy such registered Design, or any original part thereof on any article of manufacture for sale.

No person shall publish, or sell, or expose to sale, or barter or in any other manner dispose of for profit, any article whereon such registered Design or any original part thereof has been used, knowing that the Proprietor of such Design has not given his consent to the use thereof upon such article.

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No person shall adopt any such registered Design on any article of manufacture for sale, either wholly or partially, by making any addition to any original part thereof, or by making any subtraction from any original part thereof.

And if any person commit any such act, he shall for every offence forfeit a sum not less than Pounds, and not exceeding 15 Fifty Pounds, to the Proprietor of the Design, in respect of which such offence has been committed.

And be it Enacted, That the party injured by any such act may recover such penalty as follows:

4. Recovery of Penalties for Piracy.

In England, either by an action of debt or on the case, against the party offending, or by summary proceeding before Two Justices having jurisdiction where the party offending resides; and if the party injured proceed by such summary proceeding, any Justice of the Peace, acting for the county, riding, division, city or borough where the party offending resides, may issue a summons requiring such party to appear on a day and at a time and place to be named in such summons, such time not being less than Eight Days from the date thereof, and every such summons shall be served on the party offending, either in person or at his usual place of abode; and either upon the appearance or upon the default to appear of the party offending, any Two or more of such Justices may proceed to the hearing of the complaint, and upon proof of the offence, either by the confession of the party offending, or upon the oath or affirmation of one or more credible witnesses, which such Justices are hereby authorized to administer, may convict the offender in a penalty of not less than Pounds, or more than Pounds, as aforesaid, for each offence, as to such Justices doth seem fit; and if the amount of such penalty or of such penalties and the costs attending the conviction, so assessed by such Justices, be not forthwith paid, the amount of the penalty or of the penalties and of the costs, together with the costs of the distress and sale, shall be levied by distress and sale of the goods and chattels of the offender wherever the same happen to be in England; and the Justices before whom the party has been convicted, or on proof of the 44.

the conviction, any Two Justices acting for any county, riding, division, city or borough in England where goods and chattels of the person offending happen to be, may grant a warrant for such distress and sale, and the overplus, if any, shall be returned to the owner of the goods and chattels, on demand.

In Scotland, either before the Court of Session, or before the Sheriff's Small Debt Court of the county or place where the offence was committed.

In Ireland, either by action in a superior court of law at Dublin, or by civil bill in the Civil Bill Court of the county or place to where the offence was committed.

And no action or other proceeding for any offence under this Act shall be brought after the expiration of Six calendar Months from the commission of the offence; and in such action or other proceeding every plaintiff or prosecutor shall recover his full costs of suit or of such 15 other proceeding.

Registry of

FOR THE PURPOSE of registering Designs for Articles of Manufacture, in order to obtain the protection of this Act; BE it Enacted, That the Lords of the Committee of Privy Council for the consideration of all matters of Trade and Plantations may appoint a person to be 20 a Registrar of Designs for Articles of Manufacture, and, if the Lords of the said Committee see fit, a Deputy Registrar, Clerks and other necessary officers and servants; and such Registrar and Deputy Registrar shall hold their offices during the pleasure of the Lords of the said Committee; and the Lords of the Treasury may from time 25 to time fix the salary or remuneration of such Registrar, Deputy Registrar, Clerks, Officers and Servants, and, subject to the provisions of this Act, the Lords of the said Committee may make rules for regulating the execution of the duties of the office of the said Registrar, and such Registrar shall have a seal of office.

6. Registrar's

And be it Enacted, That the said Registrar shall not register any Design unless he be furnished with Two Copies or Drawings of such Design, accompanied with the name and place of abode of the Proprietor thereof; and the Registrar shall register all such Copies from time to time successively, as they are received by him for that 35 purpose, and on every such Copy he shall affix a number corresponding to such succession, and he shall file One Copy in his office, and the other he shall return to the person by whom the same has been forwarded to him; and in order to give ready access to the Copies of Designs so registered, he shall keep a classified Index of such Copies 40 of Designs.

Certificate of Registration of Design.

And be it Enacted, That upon any original Design so registered, and upon every Copy thereof received for the purpose of being registered,

registered, or for the purpose of such registration being certified thereon, the Registrar shall certify under his hand that the Design has been so registered, the date of such registration, and the name of the registered Proprietor; and such Certificate made on every such original Design, or on such Copy thereof, and purporting to be signed by the Registrar or Deputy Registrar, and purporting to have the seal of office of such Registrar affixed thereto, shall, in the absence of evidence to the contrary, be sufficient proof, as follows:

> Of the Design, and of the name of the Proprietor therein mentioned, having been duly registered, and

Of the commencement of the period of registry, and

Of the person named therein as Proprietor being the Proprietor, and

Of the originality of the Design, and

Of the provisions of this Act, and of any rule under which the 15 Certificate appears to be made having been complied with.

And any such writing purporting to be such Certificate, shall (in the absence of evidence to the contrary) be received in evidence without proof of the handwriting of the signature thereto, or of the seal of 20 office affixed thereto, or of the person signing the same being the Registrar or Deputy Registrar.

And be it Enacted, That the Lords of the Treasury shall fix the Fees to be paid for the services to be performed by the Registrar, including therein the making the original Register, the giving a certificate thereof, 25 and the making office copies of such registered Designs when required; and such Fees shall be applied to defray the expenses of the said office, and the salaries or other remuneration of the said Registrar, and of any other persons employed under him with the sanction of the Lords of the Treasury in the execution of this Act, and the balance shall be 30 carried to the Consolidated Fund of the United Kingdom, and be paid accordingly into the receipt of Her Majesty's Exchequer at Westminster; and the Lords of the Treasury may regulate the manner in which such Fees are to be received, and in which they are to be kept, and in which they are to be accounted for.

Fees of Re-

And be it Enacted, That if either the Registrar, or any person Penalty for 35 employed under him, either demand or receive any gratuity or reward, whether in money or otherwise, except the salary or remuneration authorized by the Lords of the Treasury, he shall forfeit for every such offence Fifty Pounds to any person suing for the same, by action of 40 debt, in the Court of Exchequer at Westminster, and he shall also be liable to be either suspended or dismissed from his office and rendered incapable of holding any situation in the said office, as the Lords of the Treasury see fit.

AND

10. Official Privilege of Franking.

AND for the purpose of facilitating the use of the provisions of this Act in regard to the registration of Designs; BE it Enacted, That all letters and packets transmitted by post, either to or from the office of Registrar of Designs, relating to the business thereof, shall be exempt from Postage; and that in respect of such letters and packets, the Act passed in the first year of Her present Majesty's reign, intituled, "An Act for regulating the Sending and Receiving of Letters and Packets by the Post free from the Duty of Postage," shall, so far as regards the provisions thereof, for the general regulation of the official privilege of Franking, apply to the office of Registrar of Designs.

11. Interpretation Clause.

AND for the interpretation of this Act; BE it Enacted, That the following terms and expressions, so far as they are not repugnant to the context of this Act, shall be construed as follows; (that is to say) the expression "Lords of the Treasury" shall mean the Lord High Treasurer for the time being, or the Commissioners of Her Majesty's Treasury for the time being, or any Three or more of them; and the expresion "Article of Manufacture" shall include any article of the kind herein referred to, whether it be made by hand or by machinery, or by both of those means; and the singular number shall include the plural as well as the singular number, and the masculine gender shall include the feminine gender as well as the masculine gender.

12. Commencement of Act.

And be it Enacted, That this Act shall come into operation on the passing thereof, as to the office and the appointment of the Registrar hereby authorized, and on the

One thousand eight hundred and Thirty-nine, as to the other parts of the Act.

13.
Alteration of Act.

And be it Enacted, That this Act may be repealed or amended in the present Session of Parliament.

SCHEDULE

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DATE OF ACTS.	TITLE.
27 Geo. III. c. 38. (1787.)	
29 Geo. III. c. 19. (1789.)	An Act for continuing an Act for the Encouragement of the Arts of Designing and Printing Linens, Cottons, Calicoes and Muslins, by vesting the Properties thereof in the Designers, Printers and Proprietors for a limited Time.
34 Geo. III. c. 23. (1794.)	An Act for amending and making perpetual an Act for the Encouragement of the Arts of Designing and Printing Linens, Cottons, Calicoes and Muslins, by vesting the Properties thereof in the Designers, Printers and Proprietors for a limited Time.

OUTLINE

OUTLINE OF PROVISIONS.

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<u>۽</u>	Preamble.
•	THE COPYRIGHT.
§ 1	. Grant of copyright.
•	Conditions of copyright. "Proprietor," explained.
	" Proprietor," explained.
. 2.	Transfer and register of copyright.
	Form of transfer.
	Form of request to register.
3.	Penalties for piracy.
4.	Recovery of penalties for piracy.
-	REGISTRY OF DESIGNS.
55.	Office for registry.
٠ 6 .	Registrar's duties.

§ 7. 8.	Certificate of registration of design. Fees for registration, and application	
	thereof.	
Q.	Penalty for extortion.	
10.	Official privilege of franking.	
GENERAL PROVISIONS.		

Interpretation clause.
 Commencement of Act.
 Alteration of Act.

SCHEDULE.

Acts exempted from the operation of this Act.

INDEX.

Section	Section
Actions. See Remedies.	Designs
ARTICLES OF MANDFACTURE,	For Articles of Manufacture.
Designs for	Grant of copyright of 1
Copyright of designs 1	Piracy of,
Term explained 11	Penalty against 3
Author	Evidence:
Of Designs	Documentary.
For articles of manufacture - 1	Certificate of registrar of designs 7
BOARD OF TRADE:	Witnesses. One or more, before justices - 4
Registry of Designs.	-
Appointment of officers 5	Exchequer. See Counts of Law, and Controller.
Regulation of office 5	_
Controller	Exemptions
Of Exchequer.	From Stamps.
Payment into Consolidated Fund	Of transfer of copyright in de-
of balance of fees for registry	signs 2
of designs 8	From Postage.
Copyright	Of communications with registrar of designs 10
Of Designs for Articles of Manufacture.	
Grant of copyright 1	Extortion
Enumeration of articles 1	By Officers
Conditions 1	For registry of designs 9 Informer, as to 9
Transfer and registry 2	,
Costs. See Legal Proceedings.	FRES
Courts of Law:	For Registry of Designs
Superior Courts of Law.	To be fixed by Lords of Treassury 8
Recovery of penalties for piracy 4	Application of fees 8
Court of Exchequer, Westminster.	Receiving more than fixed fees 9
Recovery of penalty for extortion 9	INTERPRETED WORDS AND EXPRESSIONS:
Justices of Peace, England.	
Recovery of penalties for piracy 4	" Article of manufacture" - 11 " Lords of Treasury" 11
Court of Session, Scotland.	" Masculine and Feminine" - 11
Recovery of penalties for piracy 4	"Proprietor of copyright in
Sheriff Small Debt Court, Scotland.	designs" 1
Recovery of penalties for piracy 4	" Singular and plural" 11
	Justices.

Section	Section
JUSTICES. See COURTS OF LAW.	REGISTRATION
Instruments:	Of Designs of Copyright.
Certificate	Register 2 Authority to register designs - 2
By registrar of designs 7	Request to register 2
Effect of, as evidence 7	Course of registration 5
Consent To the use of registered design 3	Remedies:
License	By Action.
To use registered designs - 3	For piracy of copyright of de-
Request to register	For recovery of penalty for ex-
Property in designs 2	tortion 9
Transfer Of copyright of designs 2	By summary Proceeding. For piracy of copyright of de-
INFORMER:	signs 4
Registry of Designs.	By Civil Bill.
Recovery of penalty for extor-	For piracy of copyright of de-
tion 9	signs 4
LEGAL PROCEEDINGS.	REGISTRAR
Commencement of proceedings.	Of Designs.
Piracy of copyright in designs,	Appointment of 5
6 months 4	Tenure of Office 5
Costs of,	Salary 5
For piracy of copyright in de-	Duties 2, 5, 6 Seal of office 5
signs 4	_
OFFICERS. See EXTORTION.	Deputy. Appointment of, &c 5
OPERATION OF ACT:	SESSION, COURT OF. See Courts of LAW.
Commencement of Periods stated 12	
Penalties:	SHERIFF COURT, SCOTLAND. See COURTS
Forfeiture of Office	STAMPS, COMMISSIONERS OF:
For extortion 9	a ·
Suspension from Office	Exemption from Stamps. Of transfer of copyright in de-
For extortion 9	signs 2
Incapacity to hold Office For extortion 9	STATUTES:
For Acts of Piracy as to Designs	Referred to.
Not less than £, nor exceed-	General Franking Act 10
ing £. 50 3	Saved.
Piracy	27 Geo. III. c. 38, 1787 - sch.
Of Designs	29 Geo. III. c. 19, 1789 ,,
For articles of manufacture - 3	34 Geo. III. c. 33, 1794 ,,
Penalties	Superior Courts. See Courts of Law.
For using design 3	TREASURY, LORDS OF:
For publishing design - 3	
101 adobang apage	Term explained 11
Postmaster-General:	Registry of Designs
Exemption from Postage.	To fix salary 5 To fix fees 8
Of communications with re-	To regulate the receipt of fees
gistrar of designs 10	To regulate keeping of monies
PROPRIETOR	To regulate the accounts - 8
Of Designs.	To suspend or dismiss from
Term explained 4	office for extortion 8

Designs' Copyright.

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8 L L L

To secure to Proprietors of Designs for Articles of Manufacture the Copyright of such Designs for a limited Time.

(Prepared and brought in by Mr. Poulett Thomson and Mr. Labouchere.)

Ordered, by The House of Commons, to be Printed.
21 February 1839.

44.



A

For extending the Copyright of Designs for Calico Printing to Designs for Printing other Woven Fabrics.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.

1分钟 使张 使 知 by an Act passed in the twenty-seventh year Preamble: of the reign of his late Majesty King George the Third, intituled, "An Act for the Encouragement of the Arts of Designing and Printing Linens, Calicoes and Muslins, by vesting the Properties thereof in the Designers, Printers and Proprietors, for a limited time;" and by another Act made in the thirty-fourth year of the same reign, for amending and making perpetual the said Act, it was enacted, that every person who should invent, design and print, or cause to be invented, designed and printed, and become the pro-10 prietor of any new and original pattern or patterns for printing Linens, Cottons, Calicoes or Muslins, should have the sole right and liberty of printing and re-printing the same for the term of Three Months:

27 Geo.3, q. 38.

34 Geo. 3, c. 23, (1794).

And whereas it is expedient to extend the said Acts to 15 Ireland:

And whereas since the passing of the last-recited Act there have been invented other fabrics of a similar nature, to which the said Copyright doth not extend;

EE it Enacted, by The QUEEN's most Excellent MAJESTY, by 20 and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament assembled, and by the Authority of the same, THAT this Act shall come into operation on the passing thereof.

ment of Act.

And

45.

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2.
Acts extended to Ireland.

And be it Enacted, That the said Acts, and this Act, shall extend to Ireland, as well as to England and Scotland.

3.
Description of
Fabrics to
which Provisions
extend.

And be it Enacted, That the provisions of the recited Acts shall extend to the following woven fabrics, published after the passing of this Act; (that is to say)

To fabrics composed of Wool, Silk or Hair:

To mixed fabrics composed of any two or more of the following materials; (that is to say) Linen, Cotton, Wool, Silk or Hair.

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Recited Acts and this Act to be construed as one Act.

AND with regard to any fabrics to which the recited Acts and this Act extend, which shall be published after the passing of this 10 Act; BE it Enacted, That the recited Acts and this Act shall be construed as one Act.

5. Remedy for Offences committed.

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And be it Enacted, That if any offence be committed either against the recited Acts or against this Act in Ireland, the party aggrieved shall have the same remedies in the Supreme Courts of Law in 15 Dublin, which in the like case the same party would have in England.

Designs' Copyright Extension

A

B I L L

For extending the Copyright of Designs for Calico Printing to Designs for Printing other Woven Fabrics.

(Prepared and brought in by Mr. Poulett Thomson and Mr. Labouchere.)

Ordered, by The House of Commons, to be Printed, 31 February 1839.

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Λ

To make further Provision for the Administration of Justice, and for improving the Practice and Proceedings in the Courts of the Stannaries of Cornwall, and for the Prevention of Frauds by Workmen employed in Mines within the County of Cornwall.

[Note.—The Words printed in Italics are proposed to be inserted in the Committee.]

今時世紀世紀的 by an Act passed in the last Session of Par- Preamble. liament, "for the abolition of the Duties payable on the Coinage of Tin in the Counties of Cornwall and Devon, and for giving compensation in lieu of such Duties, and to reduce the Duties of Customs payable on Tin," the Tinners of Cornwall were released from all payment of the Duty of Coinage on Tin and Tin Ore raised within the County, and thereupon it is reasonable and just that the said Tin Ore be subject to the like assessment as all other metals and metallic minerals raised in the said County are 10 subject by virtue of an Act made and passed at a Parliament held in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth, "to make provision for the more expeditious administration of Justice in the Stannaries of Cornwall, and for improving the practice and proceedings in the Courts of 15 the said Stannaries:" And whereas also it is expedient that such last-mentioned Act be amended in certain cases;

BE it therefore Enacted, by The QUEEN's most Excellent MAJESTY, by and with the Advice and Consent of the Lords Spiritual and Temporal, and Commons, in this present Parliament 20 assembled, and by the Authority of the same, THAT from and after subject to asthere be paid and payable the sum of One Farthing in the Pound sterling on the value of all in the Stan-315.

Tin Cornwall.

Tin and Tin Ore which shall from time to time be brought to sale in or withdrawn from any mine within the said County of Cornwall; and that the head manager of every Tin-mine and Streamwork shall, in respect of such Tin and Tin Ore and the assessment and payment of One Farthing in the Pound sterling thereon, be liable to all such obligations, penalties and payments, and allowed all such discharges as are imposed on and allowed to the head manager of any other mine in the said County, in respect of the like assessment and payment on other metals and metallic minerals imposed by virtue of the said Act passed at the Parliament held 10 in the sixth and seventh years of the reign of his late Majesty King WILLIAM the Fourth; and that the monies arising by means of such assessment on Tin and Tin Ore shall form part of the general fund provided by the said last-mentioned Act, and arising from the assessment on metals and metallic minerals, and be recovered and applied 15 according to the provisions of the said Act; and that from and after the said there be paid to the Collector of such assessment, in addition to his present salary, the sum of Ten Pounds in every year, charged in equal moieties on the said fund and on the revenues of the Duchy of Cornwall, and payable as his 20

2. The Jurors attending at the Stannary Courts to be exempted from attending the County Sessions as Jurors for One Year.

present salary is paid.

AND whereas the attendance of Jurors at the Court of the said Stannaries is long and laborious; BE it therefore Enacted, That all persons who shall duly attend the said Court as Jurors shall be exempted from attendance as Jurors at the Sessions for the said County of Cornwall, for One Year from the time of their attendance as Jurors at the said Court for the Stannaries; and the Vice-Warden of the said Stannaries shall, at the close of each of his sittings, cause to be made and sent to the Clerk of the Peace of the said County a List of those Jurors who shall have duly attended at his said Court: Provided always, That all fines imposed on any Juryman for non-attendance, or on any other person by the said Court of the Stannaries, be, when received, paid by the Registrar of the said Court to the Sheriff of the said County, and be by the said Sheriff received and accounted for to the service of Her 35 Majesty.

An Appeal from the Court of Common Law of the Stannaries may operate as a stay of proceedings therein on security being given by the Appellant.

And be it Enacted, That no appeal, by reason of the Vice-Warden granting or refusing a new trial, be allowed on behalf of the defendant, where the damages found by the Jury shall not exceed Twenty Pounds; and that no appeal against any judgment, order or sentence given in the Court of Common Law of the said Vice-Warden shall at any time operate therein as a stay of proceedings, unless the party appealing shall, in the opinion of the said Vice-Warden,

or

or of the Registrar of the said Court (if the matter be referred to him), give previously to his said appeal good security for the satisfaction and due performance of the judgment, order or sentence so appealed against, if the same be affirmed, and for payment of such costs incurred by or relating to his said appeal as he may be ordered to pay.

And be it Enacted, That no appeal against any decree, order or act of the said Vice-Warden made or done in the Court of Equity of the said Vice-Warden, shall at any time operate as a stay of proceedings in such Court, or be allowed, unless the party appealing shall, previously to his said appeal, give good security, in the opinion of the said Vice-Warden or Registrar as aforesaid, for payment of such costs incurred by or relating to his said appeal, as he may be ordered to pay.

4. The Appellant from a Decree of the Court of Equity of the Stannaries shall give security for the costs.

And be it Enacted, That so much of the said Act passed at the Parliament held in the sixth and seventh years of the reign of his late Majesty, as regulates the time within which any motion must be made for a new Trial, shall be and the same is hereby repealed; and that the said Vice-Warden may make such rules and orders in his said Courts relating to the time for moving for new Trials, and rehearings of causes, and to all matters relating to the taxation of costs and to practice, as to him may from time to time seem fit, anything in such Act to the contrary notwithstanding.

The Vice-Warden of the Stannaries may make Rules relating to times of new Trials, and matters of practice in his Court.

And be it Enacted, That the Registrar of the said Court may, 25 in all causes pending therein, administer oaths, take affidavits and affirmations, and receive depositions relating thereto; and that any Commissioner of the Superior Courts of Common Law at Westminster, having by commission from such Courts, or any of them. authority to take affidavits in matters relating to such Courts, or 30 any of them, may, without fee or reward, apply for and have, by commission of the said Vice-Warden, under his seal of the Stannaries, authority to take affidavits and affirmations in all suits and matters in the Court of Common Law of the said Vice-Warden; and that the said Vice-Warden may, without fee or reward, by commission 35 under his said seal, give authority to any Solicitor of the Superior Court of Equity, or to any Attorney of any of the said Superior Courts of Common Law resident or practising in or near Westminster, to take affidavits and affirmations in all suits and matters in the Court of the said Vice-Warden.

6.
The Registrar of the Court of the Stannaries and others by commission may take Affidavits.

And be it Enacted, That if, in consequence of accident or illness, the said Vice-Warden shall be prevented from attending at Truro on the day appointed for him to hold his sittings there, or any adjournment thereof, the Registrar of the said Court shall have power from

Provisions for adjourning and holding the Court in case of illness of the ViceWarden or other good cause.

time to time to open and adjourn the said Court, and thereupon all persons summoned or bound, or having occasion to attend thereat, shall attend according to such adjournment as if the Vice-Warden had been present and adjourned the Court; and the Vice-Warden, when he shall be present at such Court so adjourned, shall proceed 5 thereat as if the day of adjournment had been the day originally appointed for the holding thereof; and the said Vice-Warden shall, without delay, send a statement in writing to the Lord-Warden, to be delivered to the Secretary of the Lord-Warden, of the cause whereby he was prevented from attending as aforesaid; and the 10 said Lord-Warden shall, without delay, produce such statement to the Council or Commissioners or principal officers of the said Duchy, who have authority to require the removal of the Vice-Warden from his office: Provided also, That in case of sufficient cause being at any time shown to such Council or Commissioners 15 or principal officers, a majority of Five of them, the said Council or Commissioners or principal officers as aforesaid, of whom the said Lord-Warden, if he be present, shall be one, may appoint a fit person, being a Barrister of Ten Years' standing at the least, to execute the duties of the Vice-Warden for a time not 20 exceeding Four calendar Months together.

8.
The Registrar of the Court of the Stannaries may, in certain cases, discharge person in contempt.

And be it Enacted, That if any person be in custody for contempt, or be alleged to be in contempt of any order or decree of the said Vice-Warden, or be in custody for any cause relating to his said Court, when the said Court is not sitting, such person shall, by order of 25 the Court, be brought before the Vice-Warden or Registrar, who shall hear the defence or allegations of such person, and thereupon the said Vice-Warden may commit, or the said Vice-Warden or Registrar may, in their discretion, respectively discharge such person altogether, or may otherwise discharge such person until the next 30 sittings or for some shorter period, on such person so discharged giving good security for his appearance at the next sittings or the expiration of such shorter period, and on such other terms as the nature of the case may require: Provided always, That if such security be forfeited, the Vice-Warden may thereupon order what 35 shall appear to be just, and give relief accordingly.

G.
The Registrar may make orders relating to formal errors and amendments.

And be it Enacted, That the said Registrar may make orders respecting errors and amendments in petitions or other pleadings at law as well as in equity before any defendant shall have pleaded or answered; and in like manner may at any time make 40 orders respecting formal amendments or misnomers, or the adding or striking out names of parties, and may by consent of all parties, plaintiffs and defendants, make orders respecting any other amendments after a defendant shall have pleaded; and may from time to time require from any officer of the said Court who

shall collect or receive money either by assessment on ores or by fees of Court, or in course of a suit or otherwise, an account and payment of such money to be made to him at such time as he shall think fit.

AND whereas the business of the said Court is large and very much increased, and the same requires the constant care and superintendence of the Registrar in his office, and the salary therefore has become inadequate to such office; BE it therefore further Enacted, That from and after the

10. The Salary of the Registrar to be in

, there be paid to the said Registrar, in addition to his present salary, the sum of One hundred Pounds in every year, charged in equal moieties on the said fund, and on the revenues of the Duchy of Cornwall, and payable as his present salary is paid.

AND whereas there is at present one Prothonotary and Assistant Two Prothe-15 Registrar only of the said Court, and, on account of the said increase of business in the said Court, one such officer alone cannot perform the duties of his office; BE it therefore Enacted, That from and after the vacancy, by death, resignation or otherwise, of the present Prothonotary and Assistant Registrar, there be a 20 Senior and Junior Prothonotary and Assistant Registrar of the said Court, appointed in like manner as and in place of the said one Prothonotary and Assistant Registrar; and that the Senior shall, when so appointed, hold his office during his good behaviour therein, and the Junior shall hold his office so long as the said Vice-25 Warden shall think fit; and (from and after the vacancy, by death, resignation or otherwise, of the present Prothonotary and Assistant Registrar) that there be paid to the said Senior Prothonotary and Assistant Registrar the sum of One hundred and Twenty Pounds in every year, and to the said Junior Prothonotary and Assistant Regis-30 trar the sum of Eighty Pounds in every year; and that the said several salaries, when they shall become due, be charged in equal moieties, and payable in like manner and on like conditions as the salary of the present Prothonotary and Assistant Registrar is paid.

11. the Stannaries instead of one.

AND for the prosecution and punishment of frauds in mines, by 35 idle and dishonest workmen removing or concealing ore for the purpose of obtaining more wages than are of right due to them, and thereby defrauding the adventurers in or proprietors of such mines, or the honest and industrious workman therein; BE it therefore Enacted, That if any person or persons employed in or about 40 any mine within the County of Cornwall shall take, remove or conceal the ore of any metal, or any lapis calaminaris, manganese, mundick or other mineral found or being in such mine, with intent

12. Workmen in Mines removing or con-cealing Ore to defraud turers or other Miners, to be guilty of simple Lar-

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to defraud the proprietor or proprietors of or adventurer or adventurers in such mine, or any one or more of them respectively, or any workman or miner employed therein, then and in every such case respectively, such person or persons so offending shall be deemed and taken to be guilty of *Felony*, and, being convicted thereof, shall be liable to be punished in the same manner as in the case of *Simple Larceny*.

Stannaries Courts (Cornwall)

315.

(Prepared and brought in by
Sir Charles Lemon, Mr. Pendarves and
Mr. Solicitor General.)

Ordered, by The House of Commons, to be Printed,

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tration of Justice, and for improving the Practice and Proceedings in the Courts of the Stannaries of Cornwall, and for the Prevention of Frauds by Workmen employed in Mines within the County of

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